REGISTERS OF LAND OFFICES.

Bryson P. Blair, of Colorado, to be register of the land office at Montrose, Colo.

Lon E. Foote, of Colorado, to be register of the land office at Hugo, Colo.

Frederick C. Perkins, of Colorado, to be register of the land office at Durango, Colo.

RECEIVERS OF PUBLIC MONEYS.

John E. Adams, of South Dakota, to be receiver of public moneys at Aberdeen, S. Dak.

Daniel L. Sheets, of Colorado, to be receiver of public moneys at Durango, Colo.

POSTMASTERS.

MISSISSIPPI.

Robert S. Golden to be postmaster at Hollandale, in the county of Washington and State of Mississippi.

Henry L. Rhodes to be postmaster at Ackerman, in the county of Choctaw and State of Mississippi.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 17, 1905.*

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of the proceedings of yesterday was read and approved.

IMPEACHMENT OF JUDGE CHARLES SWAYNE.

Mr. GILLETT of California. Mr Speaker, I yield to the gentleman from Iowa [Mr. LACEY] ten minutes' time.

Mr. PALMER. Mr. Speaker, I would like, before the debate begins, to ask the gentleman on the other side if we can not take a vote on this question at 4 o'clock this afternoon. In my judgment the mind of the Members of the House has been practically made up, and there will not be very much change made by the debate should we debate here for a month. I am willing to take the vote now, and be satisfied to ask unanimous consent to have the vote taken this afternoon.

Mr. GILLETT of California. Mr. Speaker, it seems to me from the way in which this matter has been arranged, and from the fact that certain gentlemen have prepared to make speeches, the arrangement suggested by the gentleman from Pennsylvania [Mr. PALMER] would absolutely preclude them from doing so. I understood when this debate was started it was to be absolutely fair and unlimited, and I think by to-morrow afternoon we can close this matter, and in the meantime give the gentlemen who have made preparation opportunity to be heard on matters that have not yet been entirely and fully discussed.

Mr. PALMER. If there is objection, of course I can not get unanimous consent. The responsibility is on these gentlemen to continue this debate, but I am ready for a vote.

Mr. GILLETT of California. Mr. Speaker, I object.

The SPEAKER. Does the gentleman from Pennsylvania [Mr. PALMER] yield to the gentleman from California [Mr. GILLETT], who proposes, as the Chair caught it, to make an agreement to close the debate and vote at a certain hour to-morrow?

Mr. GILLETT of California. Yes, sir.

Mr. PALMER. Mr. Speaker, to put the matter in form, I ask unanimous consent of the House to vote on this proposition on these articles at 4 o'clock this afternoon.

Mr. GILLETT of California. Mr. Speaker, I object.

The SPEAKER. The Chair understood the gentleman from California [Mr. GILLETT] to propose a counter proposition to the effect that we now fix to-morrow for a vote.

Mr. PALMER. I think that "sufficient unto the day is the evil thereof." If it is to go over until to-morrow, when to-morrow comes we will try and agree.

Mr. GILLETT of California. Mr. Speaker, I ask unanimous consent that the vote be taken on this matter at 3.30 o'clock p. m. to-morrow.

The SPEAKER. The gentleman from California [Mr. GILLETT] asks unanimous consent that to-morrow at 3.30 o'clock p. m. a vote be taken upon the articles of impeachment.

Mr. MACON. Mr. Speaker, I object.

The SPEAKER. The gentleman from New York [Mr. COCKRAN] is recognized.

Mr. COCKRAN of New York. Mr. Speaker, I wished to put a parliamentary inquiry, but the question is now withdrawn and that disposed of it.

Mr. CLAYTON. Mr. Speaker, in behalf of the majority of the committee that brought in these articles I hope the gentleman from Arkansas [Mr. MACON] will withdraw his objection.

Mr. MACON. Will you allow me to say this. I only objected as my friend the gentleman from California is endeavoring to run this thing himself, and whenever I find a man trying to do that, I nearly always object.

Mr. CLAYTON. That is merely a personal matter, and I hope that the gentleman will withdraw that, and let us dispose of some public business.

The SPEAKER. Is there objection?

Mr. COCKRAN of New York. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. COCKRAN of New York. By giving unanimous consent to the request of the gentleman from California, the House does not surrender the right to vote on each of these articles separately, does it?

The SPEAKER. Of course not. All rights touching that matter will be preserved, unless there is unanimous consent as to how the vote shall be taken.

Mr. PALMER. In order to facilitate business, I will say I will join with this request of the gentleman from California that we begin voting to-morrow at half past 3.

The SPEAKER. Is there objection?

Mr. NEVIN. Mr. Speaker, what is the proposition?

The SPEAKER. That the voting begin on the articles of impeachment to-morrow at half past 3 o'clock. Is there objection? [After a pause.] The Chair hears none. The gentleman from Iowa is recognized.

Mr. LACEY. Mr. Speaker, just before adjournment last evening I had an opportunity to read to this House the debate in the Senate when this proposition (the $10 law) was first adopted. In 1898 the Committee of Appropriations put the same provision in an appropriation bill, and then there was debate in the House, to which I wish to call the attention of this body. The same provision was put in the sundry civil bill, and it was debated at some length. I will incorporate in my remarks what was said by Mr. UNDERWOOD and by Mr. CANNON in reference thereto. I will call the attention of the House to Mr. UNDERWOOD's statement on page 2283, of the Fifty-fifth Congress, second session. He says:

> Mr. UNDERWOOD. Mr. Chairman, on Saturday last I raised the point of order to that part of the sundry civil bill on page 104, that comes in after the word "*Provided*," down to the end of line 22. This provision of the sundry civil bill refers to section 715 of the Revised Statutes, that reads as follows:
>
> "SEC. 715. The circuit and district courts may appoint criers for their courts, to be allowed the sum of $2 per day, and the marshals may appoint such a number of persons, not exceeding five, as the judges of their respective courts may determine, to attend upon the grand and other juries, and for other necesary purposes, who shall be allowed for their services the sum of $2 per day, to be paid by and included in the accounts of the marshal, out of any money of the United States in his hands. Such compensation shall be paid only for actual attendance, and, when both courts are in session at the same time, only for attendance on one court."
>
> Now, this section in the bill very materially changes the provisions of section 715 of the Revised Statutes. In the first place, it provides a compensation of $10 a day to the district judges during the time they are traveling from their homes to the places where they hold extra courts. The statute already gives them $10 a day compensation during the time they are holding courts, but this gives them an additional compensation of $10 a day while traveling back and forth.

If any gentleman has made up his mind to vote for the impeachment of Judge Swayne on the $10-a-day proposition, he should do it with a full knowledge of what took place in this House in 1898, when the same provision was put into the appropriation bill, two years following the adoption of the existing law.

Mr. UNDERWOOD continues:

> Now, these judges receive $5,000 a year salary from the United States, and the law provides for their being paid mileage and traveling expenses. So that I see no reason why their compensation or salary should be increased in this way.
>
> Mr. CANNON. If my friend will allow me.
>
> Mr. UNDERWOOD. Yes.
>
> Mr. CANNON. It seems to me that he has got his point of order to the whole of the section, from line 5 to line 20, inclusive.
>
> Mr. UNDERWOOD. I have made it from page 7 to line 22, inclusive. After the word "*Provided*," on line 7, down to the end of the paragraph.
>
> Mr. CANNON. Now, from line 7 to 10, it seems to me that has nothing to do with the judges, but it is for the fees of the criers, and in the shape of a limitation.
>
> Mr. UNDERWOOD. I beg my friend's pardon. I do not think it is a limitation anywhere. I think it extends the amount of fees that shall be paid in the United States courts all along the line.
>
> Mr. CANNON. But does not section 715—I want to ask as a question of fact—apply to criers?
>
> Mr. UNDERWOOD. Section 715 applies to criers, and is a limitation. This is an extension.
>
> Mr. CANNON. Lines 7 to 10 provide that "all persons employed un-

der section 715 of the Revised Statutes shall be deemed to be in actual attendance when they attend upon the orders of the court."

Mr. UNDERWOOD. Lines 5, 6, and 7 provide for the pay of the bailiffs and criers, not exceeding 3 bailiffs and 1 crier in each court. I have no objection to that.

Mr. CANNON. I think my friend's point of order should be made from line 10, *"And provided further"*——

Mr. UNDERWOOD. The language of lines from 7 to 10 is already in the statute. The lines that they shall be paid only when in actual attendance are already in there. There is no necessity for reenacting it.

Mr. CANNON. My friend does not desire to strike out from line 5 to 10, inclusive, down to where the word "courts" occurs in line 10. You make the point of order commencing in line 10 after *"Provided further,"* and how far do you go?

Mr. UNDERWOOD. In stating the case I went down to the end of line 22, but I see that line 22 carries the appropriation, so I have no point of order to strike that out.

Mr. SHAFROTH. Why would it not be well to make the point of order only after line 11, so as to include "no such person shall be employed during vacation?" That is a wise limitation, it seems to me.

Mr. UNDERWOOD. The statute already contemplates that, because the statute says that it shall not be paid only for actual attendance upon the courts, and a judge can not attend on a court in vacation.

Mr. CANNON. My friend from Alabama is after the $10 a day to cover the expenses of traveling and attendance of the district judge when attending district courts——

Mr. UNDERWOOD. As I understand, the judge gets $10 a day after he gets to the place where he is going to hold the court.

Mr. CANNON. Not the district judge, but the circuit judges.

Mr. UNDERWOOD. When a new district judge is sent to hold court when another judge is sick, he gets, under the law, $10 a day.

Mr. CANNON. I do not so understand it. Let me give my understanding, so as to get the exact difference between us. I understand the district judge gets his $5,000 a year, if that is it——

Mr. UNDERWOOD. Yes.

Mr. CANNON. When he goes outside to hold court, he does not get anything.

Mr. UNDERWOOD. My friend from Illinois, I think, is mistaken. When he goes to attend court he gets $10 a day compensation for holding that court during the days he is there, and I think that is sufficient, for he already gets $5,000 a year, and to pay him $10 per day while at court will more than cover his expenses and it is sufficient compensation without giving him the additional amount in this bill.

Mr. CANNON. Commencing on line 16, "expenses of judges of the circuit courts of appeals"——

Mr. UNDERWOOD. That excepts the circuit court judges, and they would not receive it anyway, for it is their duty now.

Mr. CANNON. I understand when the circuit court is held away from the residence of one of the circuit judges—I mean the appellate court—they get $10 a day.

Mr. UNDERWOOD. I do not so understand it if it is within the circuit of the judge.

Mr. CANNON. Yes; if it is away from the place of his residence. The truth is, if there is any abuse it is as to the judges that perform appellate duty. Two of them always are away from their homes. They get their full salary and then $10 a day besides, whereas, it seems to me, there is no abuse as to the district judge, because he only goes away on special occasions and ought to have $10 a day.

Mr. UNDERWOOD. My friend and I do not agree. I insist that the law is that when he gets to the court outside of his district that he is going to hold he gets his $10 a day. This proposes to give him $10 a day during the time he is traveling.

Mr. CONNOLLY. This provision in the bill is in precisely the same language as the law stands to-day. There is no change. Here is the law as it was passed by the last Congress:

"Provided further, That no such person shall be employed during vacation; of reasonable expenses for travel and attendance of district judges directed to hold court outside of their districts, not to exceed $10 per day each, to be paid on written certificates of the judges, and such payments shall be allowed the marshal in the settlement of his accounts with the United States; expenses of judges of the circuit courts of appeals; of meals and lodgings for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court; and of compensation for jury commissioners, $5 per day, not exceeding three days for any one term of court."

Mr. UNDERWOOD. Does the gentleman say that became a law in the last Congress?

Mr. CONNOLLY. That is the law. Let me say, the act of March 3, 1891, provided for the creation of the court of appeals and for the payment of an additional circuit judge in each judicial circuit, provided that where the judges attended that court away from their places of residence they should be entitled to compensation, and ever since then the law has made appropriation to carry out the letter of the law creating the circuit court of appeals. I investigated that matter myself at the Department of Justice this morning, and spent an hour there with the officials that have the accounts under their supervision, and I find that the law has been so since the circuit court of appeals was established.

Mr. UNDERWOOD. I looked up the law in the Revised Statutes. I will say candidly that I did not look at the acts of the last Congress, and, if the act was passed by the last Congress, then I may be in error.

Mr. CONNOLLY. It was enacted before the last Congress, but how long ago I do not remember; I think probably about 1891, the time of the creation of the court of appeals.

Mr. POWERS. If I understand the gentleman from Alabama [Mr. UNDERWOOD] correctly, his criticism applies to this allowance to the district judges when they are called away from their districts to attend court?

Mr. UNDERWOOD. Yes, sir.

Mr. POWERS. For the information of the gentleman, let me say that for more than twenty or twenty-five years this statute has been in force. Many years ago the language of the statute relating to allowances of this kind was that the judges should be allowed their "reasonable expenses."

That wide latitude of language was greatly abused. Sometimes the judges charged as high as $40 a day. For that reason Congress cut down the allowance to $10 a day and made it apply in terms both to travel and to attendance upon court. The object of the allowance was to indemnify the judges for their expenses in leaving home, and included, of course, expenses of transportation as well as expenses while attending court. Our district judge in the State of Vermont does more work probably in the city of New York than he does in our State. When he leaves home for the purpose of holding court in New York he is allowed $10 a day from the time when he leaves until he returns, the allowance of $10 covering his transportation expenses and his expenses while in New York. As the gentleman will readily see, the allowance is not a very liberal one.

Mr. UNDERWOOD. As I understand, the law at present does not apply to the time taken up by the judge in traveling from his home to the place where he is going to hold court.

Mr. POWERS. Oh, yes, it does. The language of the act is "expenses for travel and attendance, not to exceed $10 per day;" that is, $10 per day for traveling or $10 per day while in attendance at court.

Mr. UNDERWOOD. I understand that such is the provision of this bill; but I do not understand that it is the existing law.

Mr. POWERS. It has been the law in this same form for a great many years.

Mr. UNDERWOOD. The gentleman from Illinois [Mr. Connolly] and the gentleman from Vermont [Mr. Powers] insist that this provision is now existing law as passed by the last Congress. I therefore wish to ask the gentleman from Illinois [Mr. CANNON] why the provision has been incorporated in this bill at this time?

Mr. CANNON. I will tell the gentleman exactly how I understand this matter, and I want to be entirely frank with him and the Committee of the Whole.

Ten dollars a day is the allowance now for travel and expenses to the circuit judges. When one of these judges does appellate duty away from home, he certifies his account for expenses upon the basis of $10 a day. And that is right enough. When a circuit judge of Indiana or the southern district of Illinois goes to Chicago for the purpose of holding court (and there is work enough there for three judges), all he has to do is to certify his account for expenses at the rate of $10 a day, and upon his certificate the allowance is made. But this provision of the existing law does not apply to a district judge. He must make out a detailed account of his expenses. If, for instance, he pays 10 cents for blacking his boots, or if he buys a breakfast at a restaurant for 50 cents or a dollar, he must include such items in the detailed statement of his expenses.

That statement is sent down here and must pass the approval of the accounting officers of the Treasury, who must decide as best they can whether the charges are reasonable. Now, the provision in this bill, as we have reported it, will allow these district judges $10 a day upon their certificates in the same way that the circuit judges get their allowances (which we can not prevent them from getting) at the rate of $10 per day. If this provision goes out of the bill, these district judges must continue to render an account of expenses in detail. That is the state of the case as I understand it, and I think I understand all there is in it.

Mr. SHAFROTH. And the effect of allowing these judges $10 a day will be to save money to the Treasury.

Mr. CANNON. In effect it does that, because when one of these judges is away from home, holding court in Chicago or New York City or Dallas or anywhere else outside of his district, an allowance of $10 a day for expenses is not extravagant.

Mr. UNDERWOOD. Upon the statement which the gentleman from Illinois now makes, he is probably right, so far as that matter is concerned; but the further provision in this paragraph, in the language "of meals and lodgings for jurors in United States cases," is not embraced in the present law, I know.

Mr. LIVINGSTON. Permit me to inquire of the gentleman from Iowa, just there before he goes further, was not the contention of Mr. CANNON of Illinois simply this: That it was a change from allowing an itemized account as theretofore, and a certificate from the judge?

Mr. LACEY. That is not the point.

Mr. LIVINGSTON. The point was that they had not rendered a certificate theretofore, but had to make an itemized account, and that is all there is in that.

Mr. LACEY. That is not all there is in it, as the gentleman will find if he will simply read all this debate that then took place. The proposition as originally gave $10 a day to the circuit judges, and the chairman of the Committee on Appropriations, Mr. CANNON of Illinois, said that the same allowance ought to be given to the district judges then. [Reading:]

Mr. CANNON. No, it is not; but appropriations for that purpose have been made time out of mind, because of the necessity of making provision for such expenses. I am reminded of the fact that this matter was especially brought to the attention of the Committee on Appropriations and the Committee of the Whole House five or six years ago, and upon the necessity of such an appropriation being shown it went in the bill. In reporting such a provision in the present bill your committee has simply followed the precedents. I think a point of order would lie to the clause "of meals and lodgings for jurors in United States cases." But the gentleman knows what that means. In certain protracted cases, where you have to keep the jury together, they must be fed and lodged.

Mr. UNDERWOOD. The Judiciary Committee, in connection with a bill before them, have considered the very proposition put in here. I think there ought to be some provision made as to the feeding of jurors in Government cases. But there is no limitation upon the provision here. It leaves it absolutely within the control of the judge. I think it is better to put a bill through Congress providing for the feeding of these jurors, which bill has been carefully considered by the Judiciary Committee, than it is to put through a loose provision in this way.

Mr. CANNON. Then there must be an appropriation if the bill is put through. Now, if my friend could secure the passage of the bill this appropriation would only be available according to the terms of the bill that would be passed.

Mr. UNDERWOOD. But I do not think we ought to pass laws that will leave it entirely to the discretion of the Treasury Department and of the judges to construe how and when these jurors shall be fed.

Mr. CANNON. If my friend wants to apply his point of order to the meals and lodgings of jurors in United States cases, of course the provision will go out.

Mr. UNDERWOOD. I shall be compelled to insist on that portion of it. Now, as to this provision:

"And of bailiffs in attendance upon the same, and of the compensation of jury commissioners—"

I will say that, as I understand it, the United States Government has been to no expense concerning jury commissioners heretofore.

Mr. CANNON. Oh, yes; that is provided for by law, and has been in ever since jury commissioners were authorized, I am informed.

Mr. DOCKERY. I desire to ask the gentleman whether he has made——

Mr. CANNON. The gentleman's point of order would run to these words, commencing in line 17:

"Of meals and lodgings for jurors in United States cases, and of bailiffs in attendance upon the same, when ordered by the court."

It has been called to my attention in reference to this paragraph——

The CHAIRMAN. Does the gentleman from Alabama make a point of order on that whole paragraph?

Mr. UNDERWOOD. The first provision does not limit this payment to the judges of $10 a day to the time they are actually holding court. Now, if the gentleman from Illinois will amend that part of the provision so that it shall apply to the judges, so that it shall only pay them $10 a day on the days they are actually holding court, I will withdraw the point of order.

Mr. CANNON. Well, I think it ought to so apply. I think the accounting officers would so construe it; but I have no objection to its going in, if the gentleman desires.

Mr. UNDERWOOD. Then, Mr. Chairman, as to that part of the section, from line 7 down to the word "appeals," I move to amend it by adding that compensation shall be allowed to such judges only when the court is in actual session.

Mr. DOCKERY. You ought to use some more specific language than that.

Mr. HULL. Make it "in actual attendance."

Mr. CANNON. We can agree on that, I think.

Mr. QUIGG. Mr. Chairman, a parliamentary inquiry. I want to know what is the status of this proposition? Is there a point of order pending?

The CHAIRMAN. When the matter is settled by the gentleman from Alabama as he desires to present it, it will be reported by the Clerk.

Mr. CANNON. I suppose the shorter way to do it, really——

Mr. DOCKERY. Let me suggest to the gentleman from Alabama, and the gentleman from Illinois, to insert in line 14, page 104, after the word "each," the words:

"Not to exceed $10 per day each, during the time the court is in actual session."

Then finally they adopted the law for 1898 exactly as it was in 1896. The fact, then, is simply this, that the Senate had debated the proposition in 1896, the House debated it in 1898, and it was stated in the open House by the chairman of the Committee on Appropriations that it was a rate of $10 a day.

Now the House proposes to say that anyone who drew that money in accordance with the understanding as stated by the chairman of the Committee on Appropriations is a criminal and ought to be impeached at the bar of the Senate of the United States. We can see very easily why the committee would never have done this if they had investigated it, but at the close of the contest in the Committee on the Judiciary this matter was brought forward as an entirely new item. The committee declined to investigate it, declined to allow any testimony to go in as to what the actual facts were and as to the construction put upon the law, and brought in the articles of impeachment, thus securing a majority of that committee on this one charge, which they never would have done if they had fully understood it, if they had examined the debates, if they had examined the legislative history of the original statute and the universal, or well-nigh universal, usage of the various judges in the construction of this law.

Now, this House does not want to place itself in an absurd attitude before the Senate. We do not want to go there with the charge that the judge had shown himself a criminal by doing that which we knew that he and others were doing when we absolutely refused to amend the law so as to prevent it. Therefore this first paragraph of the charges should go out and the second paragraph, which is upon the same subject, should likewise be voted down.

Mr. Speaker, I will ask that the full debate on the occasion to which I have already referred be printed in the RECORD.

Mr. WILLIAMS of Mississippi. Will the gentleman at the same time print the statute?

Mr. LACEY. The statute is in the debate, word for word.

Mr. WILLIAMS of Mississippi. I should like to see it go side by side with what he is now trying to impress upon the country as the construction of the statute.

Mr. LACEY. The statute is in the debate and is going to be printed.

Mr. WILLIAMS of Mississippi. I understand that, but if the gentleman is going to ask unanimous consent I am compelled to ask that he print the statute also.

Mr. LACEY. I printed it yesterday.

Mr. WILLIAMS of Mississippi. I wish them both to go in together in deadly parallel with what the gentleman has just said.

Mr. LACEY. Well, there is no deadly parallel. It is merely printing the statute twice, once as it was in 1896 and next as it was when we again passed it in 1898. They are as much alike each time as two peas. There is not even a comma difference.

Mr. WILLIAMS of Mississippi. The gentleman, however, is trying to convey to the country a construction of the statute which the language of the statute will not bear.

Mr. LACEY. No; that is not the question at all.

Mr. WILLIAMS of Mississippi. And he is quoting the gentleman from Illinois [Mr. CANNON] and the gentleman from Alabama [Mr. UNDERWOOD] in their notions of what the statute meant.

Mr. LACEY. Very well.

Mr. WILLIAMS of Mississippi. Now, I merely ask that the statute itself shall go side by side with the construction of their notions.

Mr. LACEY. Certainly; I will do that, with pleasure, because without the statute my remarks would cut no figure whatever. The fact was that the same identical statute, copied out of the act of 1896, was put in the act of 1898, and it was stated as I have read what construction was being put upon it by the judges, and the gentleman from Alabama [Mr. UNDERWOOD] only proposed to change that clause so as to provide that the per diem should be limited to the number of days that they actually held court, which would cut out the time occupied in coming and going. That afterwards was stricken out on the point of order as new legislation.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. PALMER. I yield to the gentleman three minutes for the purpose of answering an inquiry which my colleague [Mr. OLMSTED] desires to make.

The SPEAKER. The Chair desires to be advised. The gentleman from Iowa made a request for unanimous consent?

Mr. LACEY. I want to print the full debate on the occasion I referred to.

The SPEAKER. Is there objection?

Mr. WILLIAMS of Mississippi. I said I would object unless the gentleman would print the statute side by side with the debate.

Mr. LACEY. I will certainly print the statute. It has already been printed, but I will print it twice, in parallel columns, as follows:

THE ACT OF 1896.	THE ACT OF 1898.
Reasonable expenses of travel and attendance of district judges directed to hold court outside their districts, not to exceed $10 per day each, to be paid on written certificate of the judges, and such payment shall be allowed to the marshal in the settlement of his accounts with the United States.	Reasonable expenses of travel and attendance of district judges directed to hold court outside their districts, not to exceed $10 per day each, to be paid on written certificate of the judges, and such payment shall be allowed to the marshal in the settlement of his accounts with the United States.

Mr. WILLIAMS of Mississippi. The gentleman consents to do that, and therefore I do not object.

The SPEAKER. Is there objection?

There was no objection.

Mr. LACEY. I have three minutes more time, and I yield to the gentleman from Pennsylvania [Mr. OLMSTED] for a question.

Mr. OLMSTED. I want to ask the gentleman from Iowa if he understands that Judge Swayne did claim this compensation or allowance upon a construction of the statute? And I call his attention to the certificate, or what purports to be a copy of Judge Swayne's certificate, at the bottom of page 1 in this report containing the articles of impeachment, from which it appears that he certified—now this is quoted:

That my reasonable expenses for travel and attendance amounted to the sum of $230.

That is not at a rate per day, but he certifies that his actual expenses were that much.

Mr. LACEY. What Judge Swayne claims does not appear, because he was not permitted to make a showing before the committee. What he claimed in the certificate, of course, shows for itself. That is a printed form of certificate that was signed by every judge who drew $10 a day, signed by the various circuit judges as referred to by the chairman of the Committee on Appropriations in the debate.

Mr. OLMSTED. He says only "my actual expenses."

Mr. LACEY. Ten dollars a day for 23 days is $230. Reasonable expenses—not actual expenses.

Mr. SHERLEY. Will the gentleman from Iowa permit a question?

Mr. LACEY. Certainly.

Mr. SHERLEY. Does not the gentleman know that Judge Swayne never offered to testify as to his construction of the statute, that it entitled him to $10 a day?

Mr. LACEY. I know that he did a good deal better; he questioned the Treasury expert and offered proof by that expert, a disinterested witness, that the construction he put upon it was the construction that was usual, and I know that the

committee refused to permit him to do that, and I say that was not right. It was a mistake on the part of the committee; they should have given him an opportunity to prove it by other witnesses rather than by himself.

Mr. SHERLEY. Will the gentleman permit another suggestion?

Mr. LACEY. Yes, sir.

Mr. SHERLEY. Does not the gentleman know as a lawyer that there could not be introduced this other evidence of what other judges did until a basis for it had been made by a statement that that was the construction of Judge Swayne?

Mr. LACEY. The basis of it was made by counsel for Judge Swayne. He said he offered to prove the construction put upon this law by other judges, and thereupon the chairman of the committee at once informed him that he would not be permitted to do it; that they would not permit him to go into that question.

Mr. PALMER. Let me ask the gentleman from Iowa, if the Committee on Appropriations meant that this should be a lump sum covering all expenses of travel and attendance, why did not they say so? Why did they adopt the most inapt language they possibly could have taken? Why did they say he shall have for expenses, travel, and attendance not to exceed $10 a day? Why not, "in lieu of all expenses, travel, and attendance he shall have $10 a day?"

Mr. LACEY. That would have been a good idea. That proposition was made by the Senate of the United States. The Senate brought in an amendment exactly to that effect. This House—the gentleman from Pennsylvania was not then a Member—refused to put any such provision in the statute.

Mr. PALMER. Does the gentleman mean the Allen amendment?

Mr. LACEY. Yes.

Mr. PALMER. The gentleman is mistaken; the Allen amendment did not do any such thing.

Mr. LACEY. The gentleman from Pennsylvania will have plenty of time to explain, and when he does explain I will ask him to explain why the committee did not give an opportunity to Judge Swayne to explain how it came about that he drew $10 a day.

The SPEAKER. The time of the gentleman from Iowa has expired.

Mr. GILLETT of California. Mr. Speaker, how does the time stand?

The SPEAKER. The majority has had five minutes more than the minority.

Mr. GILLETT of California. I now yield thirty minutes to the gentleman from Ohio [Mr. GROSVENOR.]

Mr. GROSVENOR. Mr. Speaker, I trust that at the end of the brief time that has been assigned to me I may retire from this discussion with no damage done to whatever position I may occupy as a lawyer in the estimation of this House. I have never in the same space of time been so shocked and so doubtful of the high character of the profession of which I am proud to be a member as I have been at some of the exhibitions of bad temper and bad legal proposition that have been made to this House. Gentlemen who have argued for the persecution have given out in advance that there was nothing to consider, so far as facts are concerned, but if there is anything to consider, it is bound up in the printed record in this case.

And yet I submit to the House of Representatives here assembled if nine-tenths of the argument has not been based on matters wholly dehors the record in this case. Let me give you an illustration. One of the gentlemen makes this statement:

> The track of this man since the time he was appointed a judge in Florida down to this date is spread all over with bankruptcies, scandals, and suicides. I believe he has not a friend on earth in the northern district of Florida. The strong witnesses against him were of his own political party. It is not for one offense or for two offenses that the people engaged upon the task of impeaching a judge. It is long; it is tedious; it is uncertain, and if it fails, then those who undertake it are in the jaws of the lion. Therefore it is not the first nor the second nor for many subsequent offenses that the judge is impeached.

Now, there is a statement that comes to the House of Representatives totally, absolutely unsupported by any evidence in this case. He says that this persecuted individual had no friends in Florida. The record shows that every lawyer of respectability, so far as I am personally acquainted in that State, have at one time or another signed strong testimonials as to the efficiency, competency, and credit of this judge. If not all, then certainly a great many of them. Not only so, but they have asked the President of the United States to appoint him, not, as the gentleman from Pennsylvania said, an appointment that would get rid of him, but to give him an appointment that would put him in the court of appeals to review the judgment of the Democratic judge that was forced upon Florida some years ago.

I have here—and I shall put them into my remarks, if there be no objection—a long list of distinguished gentlemen who have testified on their oaths as members of the bar, for when a lawyer puts his name to the recommendation of a judge it is the oath of a man, and if he lied about it then he shall not be heard to contradict his statement now.

I copy from the record in this case:

No. 214 WEST WASHINGTON SQUARE,
Philadelphia, November 18, 1897.

His Excellency WILLIAM MCKINLEY,
President of the United States.

MR. PRESIDENT: It gives me very great pleasure to unite with the many friends of Hon. Charles Swayne, of Florida, in warmly recommending him for appointment to the Supreme Court of the United States.

Judge Swayne has for many years administered justice not only in Florida, but by assignment in the United States courts of Louisiana and Texas.

He has established a reputation for industry, integrity, learning, and all the virtues which should adorn the bench. His patriotism and courage are undoubted. You may rely upon it that his appointment would reflect great credit upon you and on the judiciary.

With highest regard, I have the honor to be, your most obedient servant,

F. CARROLL BREWSTER.

SUPREME COURT OF PENNSYLVANIA, JUDGES' CHAMBERS,
Philadelphia, November 19, 1897.

The PRESIDENT.

SIR: Permit me to suggest the appointment of Hon. Charles Swayne as a justice of the Supreme Court of the United States.

Judge Swayne's service in the northern district of Florida, and in other districts by assignment, has met the approval of the profession of the whole country, and has shown him to be learned, able, and safe.

Respectfully,

D. NEWLIN FELL.

ORPHANS' COURT,
Philadelphia, November 20, 1897.

Hon. WILLIAM MCKINLEY, *President.*

DEAR SIR: In the matter of the appointment of a successor to Mr. Justice Field upon the bench of the Supreme Court of the United States, I beg to commend to your favorable consideration the application on behalf of the Hon. Charles Swayne, now judge of the United States courts of Florida, fifth circuit. Prior to his judicial service Judge Swayne was a member of the bar of Philadelphia, in excellent repute professionally and otherwise.

In his subsequent career he has shown in a marked degree the qualities of an able jurist, and his abilities have been tested and acknowledged by his frequent assignments to the circuit and district courts of States outside of Florida. I am able to speak with confidence of Judge Swayne's fitness for the office from personal knowledge and observation.

Yours, very respectfully,

W. N. ASHMAN,
Judge of Orphans' Court.

OFFICE OF UNITED STATES DISTRICT ATTORNEY,
SOUTHERN DISTRICT OF FLORIDA,
Jacksonville, Fla., November 26, 1897.

The PRESIDENT, *Washington, D. C.:*

It is currently reported that a vacancy will soon occur upon the Supreme Bench, in which event I beg to call your attention to the claims of Hon. Charles Swayne, at present judge of the northern district of Florida. I have known him for many years, and can testify to his learning and ability as a lawyer. I have seen a great deal of him upon the bench under the most trying circumstances, and he has always had the courage to discharge his duties faithfully, fearlessly, and impartially. His private life is above reproach, and I believe that his appointment would secure not only an able and fearless jurist, but give general satisfaction.

Very respectfully,

J. N. STRIPLING.

OFFICE OF UNITED STATES ATTORNEY,
NORTHERN DISTRICT OF TEXAS,
Dallas, Tex., November 22, 1897.

Hon. WILLIAM MCKINLEY, *President.*

SIR: Learning that the friends of Judge Charles Swayne, of Florida, will make an effort to secure his appointment to fill the vacancy which will probably soon occur on the Supreme Court bench, it affords me pleasure to add my indorsement.

I have for two years constantly practiced in the courts over which Judge Swayne presided and I know him well.

His private life is pure, and as a lawyer and judge his ability can not be questioned.

Very respectfully,

W. O. HAMILTON,
United States Attorney, Northern District of Texas.

[Department of Justice, United States circuit and district courts for the northern district of Texas, J. H. Finks, clerk.]

WACO, TEX., *December 6, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States.

SIR: As there is at this time a vacancy on the Supreme Bench of the United States, I desire most earnestly to recommend to Your Excellency's favorable consideration to fill this vacancy the name of the Hon. Charles Swayne, United States district judge for the northern district of Florida.

Judge Swayne has for a number of years presided over the United States courts in Florida with eminent success and commendation. He has proven himself to be industrious, faithful, fearless, and an eminent jurist. His private life is absolutely above reproach.

Judge Swayne has not only served in the United States courts in his

own district, but he has also presided with like success and commendation by designation in the circuit and district courts of this, the northern district of Texas, and also in Louisiana. In this public service he has necessarily acquired a wide and varied judicial experience, which has amply qualified him to fill with honor and credit the exalted position of justice of the Supreme Court of the United States.

Very respectfully,

J. H. FINKS.

FRESNO, CAL., *December 11, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States:

Understanding that there at present exists a vacancy among the justices of the Supreme Court of the United States, I desire to recommend to Your Excellency's consideration Judge Charles Swayne, of Florida, for the appointment to fill the vacancy suggested.

Judge Swayne for a number of years past has presided over the United States courts in the northern district of Florida—in the fifth circuit—with eminent success. He has proven himself to be an industrious, faithful, fearless, and impartial jurist, and his private life is absolutely without reproach.

Judge Swayne has served not only in the United States courts in his own district, but has also presided with like success, by assignments, in the circuit and district courts in other States than his own, notably in the States of Louisiana and Texas.

In all this additional public service he has necessarily acquired a wide and varied judicial experience that has amply qualified him for a future successful career in the exalted position of a justice of the Supreme Court of the United States, to which he now aspires.

Very respectfully, yours,

L. L. CORY, *Attorney at Law.*

[Bomar & Bomar, attorneys and counselors.]

FORT WORTH, TEX., *December 4, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

DEAR SIR: Understanding that there is now a vacancy among the justices of the Supreme Court of the United States caused by the retirement of Justice Field, I desire most earnestly to recommend to Your Excellency's consideration for the appointment to fill the vacancy suggested Judge Charles Swayne, of Florida.

Judge Swayne for a number of years has presided over United States courts in the northern district of Florida, in the fifth district, with excellent success and commendation. He has proven himself to be an industrious, faithful, fearless, and most impartial jurist, and in his private life he is absolutely above reproach.

Judge Swayne has not only served in the United States courts in his own special district, but he has also presided with like success and commendation by assignment in the circuit and district courts of other States than his own, notably in the States of Louisiana and Texas. In all of his public service he has necessarily acquired a wide and varied judicial experience that has amply qualified him for a future successful career in the exalted position of a justice in the Supreme Court of the United States.

Very truly, yours,

D. T. BOMAR.

[Law offices Kearby & Muse, 239 Main street, opposite St. George Hotel.]

DALLAS, TEX., *December 7, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States:

Understanding that there is likely to occur very shortly a vacancy among the justices of the Supreme Court of the United States, the undersigned desire most earnestly to recommend to Your Excellency's consideration for the appointment to fill the vacancy suggested Judge Charles Swayne, of Florida.

Judge Swayne for a number of years past has presided over the United States courts in the northern district of Florida in the fifth circuit with eminent success and commendation. He has proven himself to be an industrious, faithful, fearless, and most impartial jurist, and his private life is absolutely above reproach.

Judge Swayne has not only served in the United States courts in his own especial district, but he has also presided with like success and commendation by assignments in the circuit and district courts of other States than his own, notably in the States of Louisiana and Texas.

In all this additional public service he has necessarily acquired a wide and varied judicial experience that has amply qualified him for a future successful career in the exalted position of a justice of the Supreme Court of the United States.

Very respectfully, yours,

KEARBY & MUSE.

[Law offices of J. D. Johnson, Temple Building, corner Broadway and Walnut street.]

ST. LOUIS, MO., *November 20, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States:

Understanding that there is likely to occur very shortly a vacancy among the justices of the Supreme Court of the United States, the undersigned desires most earnestly to recommend to Your Excellency's consideration for the appointment to fill the vacancy suggested Judge Charles Swayne, of Florida.

Judge Swayne for a number of years past has presided over the United States courts in the northern district of Florida in the fifth circuit with eminent success and commendation. He has proven himself to be an industrious, faithful, fearless, and most impartial jurist, and in his private life he is absolutely above reproach.

Judge Swayne has not only served in the United States courts in his own especial district, but he has also presided with like success and commendation by assignments in the circuit and district courts of other States than his own, notably in the States of Louisiana and Texas.

In all this additional public service he has necessarily acquired a wide and varied judicial experience that has amply qualified him for a future successful career in the exalted position of a justice of the Supreme Court of the United States.

Very respectfully, yours,

J. D. JOHNSON.

[Charles H. Pennypacker, attorney at law.]

WEST CHESTER, PA., *November 20, 1897.*

DEAR SIR: Judge Charles Swayne, of Florida, is a fit man to be appointed to the Supreme Bench. He is capable, is honest, has the respect and esteem of the bar, and as a lawyer writing to a lawyer, I can assure you that his appointment would gratify the profession and strengthen the bench. I am a member of this court of last resort and I think I know something of its needs, and I am sure that Judge Swayne's long experience would serve him well in this place.

Very respectfully,

CHAS. H. PENNYPACKER.

WILLIAM MCKINLEY,
President of the United States.

[Law offices of William M. Hayes.]

WEST CHESTER, PA., *November 20, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States:

To fill the vacancy caused by the resignation of Mr. Justice Field, I take pleasure in recommending to your favorable consideration Judge Charles Swayne, of Florida.

Having known him personally for many years, I most cheerfully testify to his high character and great personal worth.

I can readily believe, by what I have learned from those who have had the best opportunity for knowing, that he is well equipped for the exalted duties devolving upon a justice of the Supreme Court of the United States.

Very respectfully,

WM. M. HAYES.

[Law office of Anthony Higgins, 834 Market street, Wilmington, Del.]

NOVEMBER 29, 1897.

SIR: I respectfully beg to recommend the appointment of Hon. Charles Swayne, at present United States district judge for Florida, to the position of justice of the Supreme Court of the United States, about to be made vacant by the retirement of Mr. Justice Field. Judge Swayne is a native of Delaware, of this county of Newcastle. His father was one of the 300 who voted for Fremont; a man of sterling worth and integrity, and several times sent by his neighbors to our legislature. The son took his education in Philadelphia and came to the bar there. I recommended his appointment as district judge in Florida to President Harrison and secured his confirmation at that time by the Senate. I have noted with much interest his fearless discharge of judicial duty in his present position and the high rank he has taken as a jurist, and I feel that you will make no mistake in appointing him to this important position.

Very truly, yours,

ANTHONY HIGGINS.

The PRESIDENT.

OFFICE OF THE MAYOR,
Philadelphia, November 29, 1897.

The PRESIDENT, *Washington, D. C.:*

Allow me to indorse for appointment to the Supreme Court of the United States, Hon. Charles Swayne. He is now United States district court judge for the northern district of Florida. I have known him for years, personally; before his appointment to his present position he practiced law in this city. He has a sound legal mind and in every way is well equipped for the bench of the Supreme Court.

Very respectfully,

CHAS. F. WARWICK.

[Law offices of Jones, Carson & Beeber, 426–432 Drexel Building.]

PHILADELPHIA, *November 26, 1897.*

His Excellency WM. MCKINLEY,
President of the United States.

SIR: I have learned with much pleasure of the suggestion of the name of Hon. Charles Swayne, the present district judge of the United States of the northern district of Florida, for the position soon to become vacant in the Supreme Court of the United States.

I have known Judge Swayne well for many years. I knew him at the Philadelphia bar as a reputable and able practitioner, and I have watched with interest and pleasure his deportment as a judge. He is of the judicial temperament and amply qualified.

Very respectfully and truly, yours,

HAMPTON L. CARSON.

[Office of the City Attorney.]

SAN JOSÉ, CAL., *December 10, 1897.*

His Excellency WILLIAM MCKINLEY,
President of the United States.

DEAR SIR: I take great pleasure in recommending Judge Charles Swayne, of the northern judicial district of Florida, to fill the position on the Supreme Bench lately made vacant by the resignation of Justice Field. Judge Swayne has for many years adorned the bench by the judicial learning displayed by his decisions, and has endeared himself to his professional brethren by uniform courtesy and a display of those qualities which characterize a dignified gentleman.

The selection of Justice Swayne for the position of justice of the Supreme Court would be an evidence to the country at large that the reputation of our highest judicial tribunal was being maintained.

Very respectfully,

WM. B. HARDY.

SHERIFF'S OFFICE,
Philadelphia, November 20, 1897.

The PRESIDENT, *Washington, D. C.:*

Understanding that there is likely to occur, very shortly, a vacancy among the justices of the Supreme Court of the United States, the undersigned desires most earnestly to recommend to your favorable consideration, for the appointment to fill the vacancy suggested, Judge Charles Swayne, of Florida.

Judge Swayne, for a number of years past, has presided over the United States courts in the northern district of Florida, in the fifth circuit, with eminent success and commendation. He has proven himself to be an industrious, faithful, fearless, and most impartial jurist, and in his private life he is absolutely above reproach.

Judge Swayne has not only served in the United States courts in his own especial district, but he has also presided with like success and commendation by assignments in the circuit and district courts of other States than his own, notably in the States of Louisiana and Texas.

In all this additional public service he has necessarily acquired a wide and varied judicial experience that has amply qualified him for a future successful career in the exalted position of a justice of the Supreme Court of the United States.

Very respectfully, yours, W. GREW.

[Miller Lock Company.]

PHILADELPHIA, *November 26, 1897.*

His Excellency WILLIAM MCKINLEY, *President:*

It gives me pleasure to assure you as to Judge Charles Swayne, whose friends, I am told, are pressing his name for the honor of your nomination to fill the vacancy now looked for in the Supreme Court.

I have known him intimately since boyhood. His character and patriotism are beyond reproach. His father was twice a member of the Delaware State legislature, and was an eminently patriotic and highly honored citizen.

Judge Swayne's preceptor was the late distinguished Eli K. Price, of the Philadelphia bar. He also studied and graduated in the law department of the Pennsylvania University.

He is a true and tried Republican of the conservative class. If you name him for the place in view I am confident the appointment will redound to your honor and to the welfare and happiness of our country.

Yours, very truly,

MILTON JACKSON.

[Jackson & Sharp Company, Delaware Car Works.]

WILMINGTON, DEL., *December 4, 1897.*

The PRESIDENT:

I am pleased to commend the Hon. Charles Swayne, of Florida, judge of the United States court, to your consideration for the vacancy soon to occur by the retirement of Justice Field from the United States Supreme Court.

Very respectfully, JOB H. JACKSON.

[Idaho Daily Statesman, Editorial Rooms, Boise, Idaho.]

BOISE, IDAHO, *November 27, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States.

DEAR SIR: I desire to recommend Judge Charles Swayne, of Florida, for appointment to the Supreme Bench to fill the vacancy occasioned by the retirement of Justice Field. Judge Swayne for a number of years has been the presiding judge for the northern district of Florida with distinguished success. He has proved himself able and impartial, faithful to the high interests committed to him, and fearless in the discharge of duty. In his private life he is a model of exalted American citizenship; and both as a jurist and as a gentleman he would be an ornament of the bench of the most august tribunal in the world—the Supreme Court of the United States.

Very respectfully,

WM. BALDERSTON.

[Office of E. G. Shortlidge, M. D., 1812 Market street.]

WILMINGTON, DEL., *November 29, 1897.*

The PRESIDENT OF THE UNITED STATES.

DEAR SIR: Understanding that there is likely to occur very shortly a vacancy among the justices of the Supreme Court of the United States, the undersigned desire most earnestly to recommend for your favorable consideration the appointment of Judge Charles Swayne, of Florida, to fill the vacancy.

Judge Swayne for a number of years past has presided over the United States courts in the northern district of Florida, in the fifth circuit, with eminent success and commendation. He has proven himself to be an industrious, faithful, fearless, and most impartial jurist. In his private life he is absolutely above reproach. Judge Swayne has not only served in the United States court in his own especial district, but has also presided with like success and commendation by assignment in the circuit and district courts of other States than his own—notably in the States of Louisiana and Texas. In all this additional public service he has necessarily acquired a wide and varied judicial experience that has amply qualified him for a future successful career in the exalted position of a justice of the Supreme Court of the United States.

Very respectfully, yours, EVAN G. SHORTLIDGE.

[F. K. Ledyard, dentist, No. 53 South First street.]

SAN JOSE, CAL., *December 10, 1897.*

Hon. WILLIAM MCKINLEY,
President of the United States:

We feel justified in our determined move in bringing before Your Excellency the name of Judge Charles Swayne, of Florida, as a candidate for one of the justices of the Supreme Court of the United States.

His father repeatedly represented his little State—Delaware—in the assembly, and was one of those old-line Quakers which we so much admire. Judge Swayne has a goodly share of those sterling qualities, and his past experience well fits him for the exalted position of Chief Justice of the Supreme Court.

Very respectfully, F. K. LEDYARD.

EXHIBIT FF.

Letters recommending Hon. Charles Swayne, judge of the district court of the United States for the northern district of Florida, for appointment as judge of the circuit court of the United States, fifth circuit.

Benjamin S. Liddon, ex chief justice State of Florida; Hon. John Eagan, United States attorney, Pensacola, Fla.; Hon. J. Emmet Wolfe, late United States attorney, northern district of Florida; Benjamin C. Tunison, esq., Pensacola, Fla.; F. W. Marsh, esq., Pensacola, Fla.; Buckner Chipley, esq., Pensacola, Fla.; R. P. Reese, esq., Pensacola, Fla.; A. A. Fisher, esq., Pensacola, Fla.; J. W. Landrum, esq., Pensacola, Fla.; E. K. Nichols, esq., Pensacola, Fla.; Wm. Fisher, esq., Pensacola, Fla.; Judge E. D. Beggs, Pensacola, Fla.; C. M. Coston, esq., Pensacola, Fla.; Geo. P. Wentworth, esq., Pensacola, Fla.; John D. Cody, esq., Pensacola, Fla.; Hon. Daniel Campbell, De Funiak Springs, Fla.; S. K. Gillis, De Funiak Springs, Fla.; Judge D. G. McLeod, De Funiak Springs, Fla.; Messrs. Calhoun & Farley, Marianna, Fla.; E. P. Aaxtell, esq., Jacksonville, Fla.; Wm. H. Harwick, esq., Jacksonville, Fla.; Hon. H. L. Anderson, Ocala, Fla.; Hon. H. C. Coke, Dallas, Tex.; Mark D. Brainard, jr., esq., Montgomery, Ala.

[Liddon & Eagan, attorneys and counsellors at law.]

PENSACOLA, FLA., *February 1, 1899.*

The PRESIDENT:

We most earnestly urge the appointment of Hon. Charles Swayne, our present United States district judge for the northern district of Florida, to the position of circuit judge of the fifth circuit, under recent act of Congress creating an additional circuit judge.

Judge Swayne has served in his present position for the past ten years and made a most excellent judge, so that he is well qualified by experience for the circuit judgeship. We feel sure his appointment to the position would meet with the hearty approval of the bar and people of our circuit.

Very respectfully, LIDDON & EAGAN,
Attorneys at Law.

[Department of justice, northern district of Florida, J. Emmet Wolfe, late United States attorney.]

PENSACOLA, FLA., *January 31, 1899.*

The PRESIDENT, *Washington, D. C.*

SIR: The friends of Hon. Charles Swayne, judge of the United States district court for the northern district of Florida, will present his name for your consideration in connection with the recently created office of additional circuit judge for the fifth judicial circuit.

Judge Swayne has presided over our district and circuit courts for several years with great satisfaction, both to the members of the bar and the public, evidencing in his decisions a finely discriminating mind and great judicial knowledge.

He has also repeatedly been called upon to sit as a member of the circuit court of appeals for this circuit, and the decisions he has delivered as a member of that court fully sustain the high reputation he has established in this district.

I cordially indorse Judge Swayne for this position and earnestly urge his appointment, and in so doing feel that I voice the sentiment of all who have knowledge of his character and ability.

Respectfully,

J. EMMET WOLFE.

[Benjamin C. Tunison, attorney and counselor at law, Pensacola, Fla.]

FEBRUARY 2, 1899.

The PRESIDENT, *Washington, D. C.*

SIR: I desire to join with many of the citizens of the fifth judicial circuit in recommending to Your Excellency for appointment as circuit judge Hon. Charles Swayne, of Florida.

From a long acquaintance with Judge Swayne and close observation of him I unhesitatingly say that he is most excellently well equipped to perform the duties of this exalted office. Judge Swayne is a man of sterling integrity and purest possible life; he is a patriotic American and an enthusiastic admirer of our grand Union; a believer in our Constitution as expounded by the great lights of our party, with a strength of character that enables him to do his duty as he sees it, regardless of consequences. As a lawyer he is well read, careful, logical, quick, and perceptive. As a judge he is calm, deliberate, dignified, impartial, and kind. His is peculiarly the judicial temperament.

Since June 1, 1889, Judge Swayne has been the presiding judge of our United States district court. Throughout that time I have been an active practitioner before him. Shortly after his appointment several hundred election cases were brought into this court, and Judge Swayne was compelled to pass thereon. These cases were bitterly fought. The leading lawyers of the State, as well as the newspapers thereof, were engaged in arraigning the public opinion against the court. Excitement ran high, and a condition existed almost analogous to rebellion against the authority of the United States. Two deputy marshals were killed by the lawbreakers, and in numerous counties of the State process from the United States court could not be served on account of the armed resistance. Judge Swayne had just been elevated to the bench; but, notwithstanding the conditions existing throughout his district and the assaults made upon him, he never for one moment deviated from that just course that in a judge wins the admiration of all.

During the first few years of his judicial life he was "tried in the fire;" he went through the ordeal, and from out this season of trouble he won the highest position in the hearts and minds of the people of our State, irrespective of party affiliations. He has always been a just and upright judge.

During his incumbency in this district he has, by assignment, frequently held court in Texas and Louisiana, and to my personal knowledge he has there met with the highest commendation from those who were honored by making his acquaintance. He has also sat on several occasions upon the bench of the court of appeals of this circuit, and his opinions there rendered demonstrated his peculiar fitness therefor.

In every position in life Judge Swayne has acted with honor and credit, and the Government of the United States would be benefited should he be elevated to a position embracing a larger territory than that now occupied by him. As one looking to the maintenance of an exalted judiciary, I commend for the appointment above referred to Judge Charles Swayne.

Very respectfully, B. C. TUNISON.

[Marsh & Chipley, attorneys and counselors at law, Pensacola, Fla.]

FEBRUARY 2, 1899.

The PRESIDENT, *Washington, D. C.*

SIR: We respectfully indorse the application of the Hon. Charles Swayne for the position of circuit judge for the fifth judicial circuit, which position we understand it will soon become incumbent upon Your Excellency, with the consent of the Senate, to fill.

We can conceive of no more appropriate appointment than this would be, reflecting credit upon the United States judiciary, and being a just

promotion of one who has so efficiently and ably served the interests of the people throughout this portion of the United States. As district judge he has received the respect of every person who has had the pleasure of his acquaintance, and his personal attributes are well fitted for the position.

Very respectfully,

F. W. MARSH.
BUCKNER CHIPLEY.

[R. Pope Reese, attorney at law.]

PENSACOLA, FLA., *January 31, 1899.*

The PRESIDENT, *Washington, D. C.*

SIR: I would respectfully recommend for your favorable consideration the name of Charles Swayne for appointment as additional judge of the fifth judicial circuit of the United States. I think his experience well qualifies him to fill said office with credit to himself and the Government.

Respectfully,

R. P. REESE.

[A. A. Fisher, attorney and counselor, Pensacola, Fla.]

FEBRUARY 2, 1899.

Hon. WM. MCKINLEY,
President, etc., Washington, D. C.

SIR: Allow me to recommend to your favorable consideration for appointment as United States circuit judge for the fifth circuit Hon. Charles Swayne, the present judge of our United States district court.

Judge Swayne is in every way admirably qualified and equipped for this exalted position, and his appointment thereto would be eminently satisfactory to the bar and laity of this circuit. Judge Swayne's character, learning, and judicial disposition are unquestioned and unquestionable.

Very respectfully,

A. A. FISHER.

[James R. Landrum, attorney and counselor at law and marine notary public.]

PENSACOLA, FLA., *February 1, 1899.*

His Excellency WM. MCKINLEY,
Executive Mansion, Washington, D. C.

SIR: I have the honor of respectfully indorsing Judge Charles Swayne for judge of the United States circuit court, fifth judicial circuit.

Judge Swayne has given eminent satisfaction as judge of this district. Of deep learning and keen perception, his decisions are looked upon with real, as contradistinguished from ostensible, respect, and I believe that his preferment would meet with the hearty approval of the professional and business interests of the fifth judicial circuit.

Very respectfully,

JAMES R. LANDRUM.

[E. K. Nichols, attorney and counselor at law, 14 East Government street, Pensacola, Fla.]

FEBRUARY 2, 1899.

His Excellency the PRESIDENT OF THE UNITED STATES,
Washington, D. C.

SIR: Permit me, respectfully and most earnestly, to urge upon your favorable consideration the name of the Hon. Charles Swayne, now judge of one of the district courts in this State, for appointment as the additional circuit judge provided for in the fifth circuit.

I have known Judge Swayne intimately for many years—while at the bar and since his elevation to the bench. He was always eminent while in the practice of his profession for honesty, erudition, and industry. He is a man whose private life has been clean and irreproachable.

All the while since he has been a judge he has been distinguished for his learning in the law; for his untiring industry; for his suavity of manners, alike to lawyer and to litigant; for his absolute impartiality, and for his fearlessness in the administration of justice.

I verily believe that Judge Swayne's promotion to this higher court would prove a creditable act on the part of your excellency, for whom personally, and for the success of whose Administration, I entertain the most profound regard and offer the most fervent prayer.

Your obedient servant,

EGBERT K. NICHOLS.

[Wm. Fisher and E. D. Beggs, attorneys and counselors at law, Pensacola, Fla.]

FEBRUARY 2, 1899.

His Excellency WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

SIR: Having learned that the Hon. Charles Swayne, judge of the United States district court for the northern district of Florida, would be suggested to you for appointment as circuit judge of the fifth circuit of the United States under the recent act of Congress, we desire to respectfully recommend Judge Swayne to your favorable consideration for that position, and to add our indorsement of him to the many others which will be presented to you in his behalf.

We have the honor to remain, with great respect,

Yours, very truly,

WM. FISHER.
E. D. BEGGS.

[Charles M. Coston, attorney and counselor at law, No. 14½ East Government street, Pensacola, Fla.]

FEBRUARY 2, 1899.

Hon. WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

DEAR SIR: It affords me pleasure, as member of the bar, practicing before the United States district court for the northern district of Florida, to indorse the Hon. Charles Swayne for the position of judge of the United States circuit court, fifth circuit.

His established reputation as a jurist, his consistent courtesy to the members of the bar practicing before his court, and his long and meritorious services as a member of the judiciary entitle him to the promotion he now desires.

I have the honor to be, yours, very respectfully,

CHAS. M. COSTON.

[Geo. P. Wentworth, attorney at law.]

PENSACOLA, FLA., *February 2, 1899.*

The PRESIDENT, *Washington, D. C.*

SIR: It is with great pleasure that I have the privilege of recommending Hon. Charles Swayne, judge of the district court of the United States for the northern district of Florida, to the position of circuit judge for the fifth judicial circuit.

Respectfully,

GEO. P. WENTWORTH.

[John D. Cody, attorney and counselor at law, Pensacola, Fla.]

FEBRUARY 2, 1899.

The PRESIDENT, *Washington, D. C.*

SIR: I am advised that Judge Swayne's name will be proposed to you as a suitable one for appointment as United States circuit judge. His appointment would be a just recognition of a learned, upright, fearless, and patriotic judicial officer; would be eminently satisfactory to our people, and would reflect great credit upon your honored Administration.

I commend his appointment.

Very respectfully,

JNO. D. CODY.

DE FUNIAK SPRINGS, FLA., *January 30, 1899.*

Hon. WILLIAM MCKINLEY,
President United States.

MY DEAR SIR: I take pleasure in recommending Hon. Charles Swayne for appointment to the judgeship of the fifth circuit.

I have known Judge Swayne, and have practiced in his court, and can recommend him as a man of spotless character, and in my opinion of sufficient judicial experience and legal knowledge as to fit him for the important office of circuit judge. I am not of his political household, hence can have no sinister motives in making this recommendation.

Very respectfully submitted.

DANIEL CAMPBELL,
Attorney at Law.

DE FUNIAK SPRINGS, FLA., *January, 1899.*

The PRESIDENT:

It gives me great pleasure to indorse the application of Hon. Charles Swayne for appointment to the position of judge of the circuit court of the United States, fifth circuit. I know Judge Swayne to be a "whole-soul" Christian and an able judge.

Respectfully,

S. K. GILLIS, *Attorney.*

DE FUNIAK SPRINGS,
Walton County, Fla., January 30, 1899.

The PRESIDENT:

I take pleasure in indorsing the application of Hon. Charles Swayne for appointment to the position of circuit judge, United States circuit court.

Judge Swayne's splendid record as judge of United States district court in Florida has clearly demonstrated his fine fitness and high attainments for the responsible position to which he aspires.

Respectfully,

D. G. MCLEOD, *County Judge.*

[Calhoun & Farley, lawyers.]

MARIANNA, FLA., *January 31, 1899.*

His Excellency WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

DEAR SIR: It has come to our attention that His Honor Judge Charles Swayne is a candidate for the office of circuit judge of the fifth United States circuit. In regard to his appointment we beg leave to say that we regard Judge Swayne as one of our ablest and most efficient judicial officers in the South, and we feel that his appointment would meet the unanimous approval of the whole bar.

Trusting that you may see fit to bestow upon him the further honors which his high attainments so justly merit, we are, indeed,

Very respectfully,

CALHOUN & FARLEY.

[Jacksonville, Tampa and Key West Railway, E. P. Axtell, general attorney.]

JACKSONVILLE, FLA., *January 31, 1899.*

The PRESIDENT, *Washington, D. C.*

SIR: I am advised that the Hon. Charles Swayne, United States district judge for the northern district of Florida, is being urged for the position of United States circuit judge for the fifth circuit.

I beg to say that during President Harrison's Administration I occupied the position of assistant United States attorney for said district, and had full opportunity of judging the qualifications of Judge Swayne. In my opinion he is thoroughly qualified in every particular to discharge the duties of a circuit judge. During the last two years he has frequently occupied a position upon the bench of the United States circuit court of appeals for this circuit, and is, therefore, eminently qualified for the position.

I heartily indorse Judge Swayne for this position, as I believe his appointment will be a creditable one.

Respectfully,

E. P. AXTELL.

[Office of William H. Harwick, attorney at law.]

JACKSONVILLE, FLA., *January 31, 1899.*

Hon. WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

DEAR SIR: Having just learned that Hon. Charles Swayne, judge of the district court of the United States for the northern district of Florida, has been suggested for the circuit judgeship of this (fifth) circuit created by recent act of Congress, I take this first opportunity to indorse Judge Swayne for the position, feeling confident that his appointment as circuit judge for the fifth circuit of the United States would give a universal satisfaction to the members of the bar thereof.

The past record of Judge Swayne must satisfy every impartial person that in learning, judicial experience, and character he is eminently fitted to fill the position suggested.

Not only as a member of the bar, but as a Republican, deeply interested in all that pertains to the welfare of our party, I feel that Judge Swayne's appointment would be to the best interests of and meet the approval of the organization in this section of the country.

Very respectfully, yours,

WM. H. HARWICK.

[H. L. Anderson, attorney at law, Ocala, Fla.]

JANUARY 30, 1899.

The PRESIDENT, *Washington, D. C.*

SIR: I take pleasure in recommending to you for appointment to be judge of the fifth circuit of the United States the Hon. Charles Swayne, now district judge for the northern district of Florida. The high character, learning, and judicial experience of Judge Swayne peculiarly fit him to discharge the duties of this high office, and I feel quite well assured that the bar of this State will be glad of an opportunity to support the claims of Judge Swayne to this appointment.

Respectfully,

H. L. ANDERSON.

[Law offices of Coke & Coke, Dallas, Tex.]

JANUARY 31, 1899.

BENJAMIN C. TUNISON, Esq., *Pensacola, Fla.*

DEAR SIR: I am in receipt of your favor of the 28th instant in reference to the candidacy of Judge Charles Swayne for the circuit judgeship of the fifth circuit.

I regret extremely that I did not hear from you earlier. Some four or five days ago a friend of mine called on me in behalf of Judge Aleck Boarman, of Louisiana, and, more in deference to his request than otherwise, I wrote a letter to the President in behalf of Judge Boarman. The letter, however, consisted of a plain statement that Judge Boarman, while presiding in the courts of the northern district of Texas, has received the esteem of the bar of this district, and was regarded by the bar as an upright and intelligent judge. This was in substance the letter.

If there is anything I can do to assist the cause of Judge Swayne without putting myself in a wrong position after writing this letter for Judge Boarman, I will take the greatest pleasure in doing so. I would rather see Judge Swayne in the position than any man I know. I entertain for him the highest respect. I saw much of him while holding the courts in this district, and not only conceived a friendship for him, but I believe that he is one of the most upright and honest men that has ever presided in the Federal courts in Texas. It would afford me the greatest possible pleasure to be of any assistance to him in obtaining this appointment. If there is any way in which I can do so without inconsistency, it would be a pleasure to do it. I have no idea that Judge Boarman has any sort of chance of the appointment, and if he should be eliminated from the contest I will take pleasure in writing to the President in Judge Swayne's behalf or doing anything else in my power, for I could write a very complimentary letter without going beyond what I believe to be the truth and his deserts.

Very truly, yours,

HENRY C. COKE.

JANUARY 31, 1899.

Hon. WILLIAM MCKINLEY,
President of the United States.

SIR: I take pleasure in suporting Hon. Charles Swayne, judge of the district court of the United States for the northern district of Florida, as the proper appointee of yourself as the additional circuit judge of the fifth circuit.

Judge Swayne is a gentleman of unimpeachable character, learning, and is peculiarly adapted for the position.

Respectfully,

MARK D. BRAINARD, Jr.,
Land Attorney for the S. & N. A. R. R. and L. & N. R. R.

EXHIBIT GG.

PENSACOLA, FLA., *February 4, 1899.*

The PRESIDENT, *Washington, D. C.*

SIR: I beg to join with numerous members of our profession in recommending to your favorable consideration for appointment as judge of the circuit court of the United States, fifth circuit, Judge Charles Swayne.

I am satisfied that this appointment would meet with the approval of the people of this circuit.

Very respectfully,

A. C. BLOUNT, Jr.,
Judge Criminal Court of Record, Escambia County, Fla.

[O. T. Lyon & Sons, lumber.]

SHERMAN, TEX., *January 3, 1899.*

His Excellency WILLIAM MCKINLEY,
President of the United States.

SIR: We take pleasure in commending to your notice for appointment as additional judge of the fifth circuit the Hon. Charles Swayne, at present Federal judge in Florida.

We have known Judge Swayne both in Florida and while sitting here (during the illness of late Federal Judge Rector), and feel sure in saying that the people of Texas would be pleased to see Judge Swayne receive this appointment; for his many friends here think that it would be but just recognition of his services and talents.

Very respectfully,

O. T. LYON.
CECIL A. LYON,
Member State Republican Executive Committee.

PENSACOLA, FLA., *February 4, 1889.*

His Excellency the PRESIDENT OF THE UNITED STATES.

SIR: Having been a practitioner at the bar for a great number of years, both in this State (Florida) and in Alabama, and particularly in the United States district court for the northern district of Florida, I take great pleasure in recommending Judge Charles Swayne for the position of circuit judge, recently provided for in the fifth circuit.

Judge Swayne's judicial and executive abilities fit him preeminently for the new position suggested, therefore I would kindly ask Your Excellency to consider his application and the letters of those recommending him and make his appointment, for I voice the sentiments of the people of this section of the Union in this respect.

Yours, very respectfully,

Judge JAS. E. GREEN.

[John C. Avery, attorney and counselor at law, Pensacola, Fla.]

JANUARY 31, 1899.

President WILLIAM MCKINLEY, *Washington, D. C.*

SIR: Congress having passed an act providing for an additional circuit judge in the fifth circuit, I wish to recommend for said position the Hon. Charles Swayne, now judge of the district court of the United States for the northern district of Florida.

Judge Swayne has filled the office which he now holds to the entire satisfaction of the bar of this district, regardless of politics. He enjoys the confidence and good will of all who have had business before him, and his promotion to a circuit judgeship would be generally regarded as a bestowal of honor upon one who justly deserves it and is thoroughly qualified for the duties of the place.

Respectfully,

JNO. C. AVERY.

PENSACOLA, FLA., *February 4, 1899.*

His Excellency WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

SIR: Having known Judge Swayne for the last eight years as a practicing attorney in the United States court, I take pleasure in recommending him for appointment to the judgeship of the fifth circuit of the United States. I think Judge Swayne is well qualified as a lawyer for the position, and I am satisfied that the bar and the people will be well pleased at his selection for the place.

Respectfully,

C. H. LANEY, *Attorney at Law.*

[Law offices Bruce S. Weeks, rooms 1 and 2, Bank Building.]

EUSTIS, FLA., *February 1, 1899.*

The PRESIDENT, *Washington, D. C.*

SIR: I have the honor of joining with others of the bar in suggesting the very especial fitness of Hon. Charles Swayne for the additional circuit judge of this (the fifth) circuit. Judge Swayne is known to every member of the southern Federal bar as a man above reproach and as a jurist of preeminent qualities. His deep learning, wide experience, and the respect he commands strongly commend his especial fitness for the position, and he would doubtless be an honor to the bench of the circuit court, as he has been to that of the district.

Very respectfully,

BRUCE S. WEEKS.

[Law office of Beggs & Palmer, Orlando, Fla.]

FEBRUARY 1, 1899.

His Excellency the PRESIDENT OF THE UNITED STATES.

SIR: I take pleasure in indorsing Hon. Charles Swayne, judge of the northern district of Florida, as a gentleman of high personal standing and a lawyer of fine legal attainments, and am sure that he would fill the position of circuit judge in a manner acceptable to the members of the bar.

Yours, truly,

J. D. BEGGS.

[Law office of Anthony Higgins, 834 Market street, Wilmington, Del.]

FEBRUARY 8, 1899.

The PRESIDENT.

SIR: I beg to recommend the appointment of Hon. Charles Swayne as United States district judge for the fifth judicial circuit.

I was largely concerned in favor of Judge Swayne when appointed to the United States district bench by President Harrison.

He is a native of this State and county. His father was one of our most estimable citizens, and a leading Republican in the Fremont days when they were numbered by only hundreds in the State.

Mr. Swayne is a man of upright character, good heart, quiet and sound judgment, and of thorough learning.

I do not think you would go wrong in appointing him to this responsible position.

Very respectfully,

ANTHONY HIGGINS.

NASHVILLE, TENN., *February 9, 1899.*

The PRESIDENT, *Executive Mansion.*

SIR: Through general sources of information (the public press) I learn there is to be an additional circuit judge appointed for the fifth circuit, and I desire to add my tribute (like the widow's mite) to the character and fitness of a man in the line of promotion, and seemingly the logical appointee. I first met the Hon. Charles Swayne, judge of the district court of the United States for the northern district of Florida, in my official capacity as special examiner of the United States Pension Office. I was impressed with his ability and firmness in exercising the functions of his position. Subsequently, I met Judge Swayne personally, and my admiration was increased with the knowledge of his purity of character and his universal courtesy and kindness. I believe I voice the sentiment of all who know him, friends or opponents alike, that he is eminently qualified in every particular to fill a position where integrity, honesty of purpose, and legal ability is absolutely required.

I have the honor to be, very respectfully, your obedient servant,

J. A. DAVIS.

[Law office Robbins & Graham Co.]

TITUSVILLE, FLA., *February 1, 1899.*

His Excellency WILLIAM MCKINLEY,
President, Washington, D. C.

DEAR SIR: In the matter of the appointment of an additional circuit judge for the fifth circuit we would state that from our personal knowledge of the Hon. Charles Swayne, present district judge of the northern district of Florida, he would in our opinion be excellently fitted to discharge the duties of that important office.

Very truly, yours,

ROBBINS & GRAHAM.

[Office of Judge First Judicial Circuit, State of Florida.]

PENSACOLA, FLA., *February 11, 1899.*

Hon. WILLIAM MCKINLEY,
President, Washington, D. C.

SIR: Hon. Charles Swayne, who is being urged for appointment to the office of circuit judge for the fifth judicial circuit of the United States, is a gentleman of much ability and industry, with ten years' experience on the Federal bench, and I take great pleasure in indorsing him for appointment to said office.

Respectfully,

E. C. MAXWELL.

[Clark & Bolinger, Attorneys at law.]

WACO, TEX., *February 4, 1899.*

His Excellency the PRESIDENT,
(Through the Attorney-General.)

SIR: I beg to commend to Your Excellency the appointment of Hon. Charles S. Swayne, present judge of the district court of the United States for the northern district of Florida, for appointment as circuit judge of the fifth circuit created by the recent bill to that effect.

Judge Swayne presided in this district for two or three terms, by allotment during the incapacity of Hon. John B. Rector, late judge of this district. His suavity and learning, combined with his great administrative ability, commended him most favorably to the bar of the district, and his lifelong devotion to the Republican party would, in my judgment, not only justify his appointment to this vacancy, but such appointment would be as acceptable to the bar of the circuit as any that could be made under present conditions.

Respectfully,

GEO. CLARK.

[Law office of Sayles & Sayles.]

ABILENE, TEX., *February 10, 1899.*

The PRESIDENT, *Washington, D. C.*

SIR: Permit us to suggest that Hon. Charles Swayne, judge of the United States district court for the northern district of Florida, would, in our judgment, be a proper appointee as the additional circuit judge of the fifth circuit.

Judge Swayne is a gentleman of culture and refinement, and has had a wide and varied experience as a lawyer, and is thoroughly conversant with the questions that arise in litigation in the South. We have tried cases before Judge Swayne, and this letter is based upon our personal acquaintance with him and our observations of him while on the bench.

Respectfully,

SAYLES & SAYLES.

OFFICE OF UNITED STATES DISTRICT ATTORNEY,
SOUTHERN DISTRICT OF FLORIDA,
Jacksonville, Fla., February 16, 1899.

The PRESIDENT, *Washington, D. C.*

SIR: It affords me pleasure to add my testimony to that of many members of the bar as to the character, fitness, and ability of Hon. Charles Swayne, who is now being urged by many of the most prominent lawyers for judge of the fifth judicial circuit. As United States attorney I have practiced before him for years and have had better opportunity, perhaps, than anyone else for observing his conduct and measuring his ability.

I have no hesitancy in saying that he is fully equipped for the position, and you may feel assured that if he is appointed the duties of the office will be faithfully and promptly discharged.

Respectfully,

J. N. STRIPLING.
United States Attorney.

WASHINGTON, D. C., *February 7, 1899.*

The PRESIDENT:

I have the honor to join in the indorsement of Hon. Charles Swayne for appointment as judge of the United States circuit court for the circuit comprising the States of Florida, Georgia, Alabama, Louisiana, and Texas.

In my judgment, the appointment of Judge Swayne to this position would redound to the credit of the Federal judiciary and the Administration. His experience and his mental and personal qualifications are all in line with the duties of the office.

Asking your careful consideration of the matter, I am, with great respect,

JOHN E. STILLMAN,
Late Chairman Florida Republican State Committee.

[Law offices of Charles B. Parkhill.]

PENSACOLA, FLA., *February 8, 1899.*

Hon. WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

SIR: I desire to add my recommendation and indorsement of Hon. Charles Swayne, United States district judge, for the northern district of Florida, for the appointment to the office of circuit judge for the fifth circuit, as created recently by act of Congress.

Judge Swayne is fully qualified to discharge the duties of this office, and I think his appointment would meet with favor of the people of Pensacola.

Respectfully,

C. B. PARKHILL.

PENSACOLA, FLA., *February 4, 1899.*

His Excellency WILLIAM MCKINLEY,
President of the United States, Washington, D. C.

SIR: I take great pleasure in recommending for appointment to the position of circuit judge for the fifth circuit of the United States, Hon. Charles Swayne, the present judge of the district court for the northern district of Florida. I regard Judge Swayne as being thoroughly competent and qualified for said position, having practiced before him and knowing him as I do, think his appointment will be satisfactory to all who have come in contact with him.

Respectfully,

C. M. JONES,
Attorney at Law.

Over and over again, during the progress of this trial, Judge Pardee has been cited as an eminent authority who sat in judgment upon the findings of this judge. All of the appeals that went up from the decisions of Judge Swayne went to the tribunal over which Judge Pardee presided. All the assignments that were made to him, covering a long and laborious career as a judge, were made by Judge Pardee, and now, Mr. Speaker, I am going to adopt as a part of my address on this occasion a letter which I received from Judge Pardee, dated on the 24th day of March, and received one day later, which I shall ask the Clerk to read, so that the entire House may hear the testimony of the gentleman who has been so often invoked by the gentleman from Pennsylvania [Mr. PALMER].

The Clerk read as follows:

[Personal and confidential.]

UNITED STATES CIRCUIT COURT OF APPEALS, FIFTH CIRCUIT,
New Orleans, La., March 24, 1901.

Hon. CHARLES GROSVENOR,
House of Representatives, Washington, D. C.

DEAR SIR: I feel called to write you a personal letter in regard to the proceedings now pending in the House looking to the impeachment of Judge Charles Swayne, of the northern district of Florida. I was very much surprised to learn through the papers that the Judiciary Committee of the House had voted, six Democrats and two Republicans, to present articles of impeachment against Judge Swayne. As I have known Judge Swayne personally, and have known many of the court proceedings in his district since he was appointed judge, I want to present my view of his case to you. Judge Swayne, born in Delaware, settled in Florida about 1880, and entered upon the practice of the law. On the death of Judge Settle there was a protracted contest for the appointment of his successor, which resulted in throwing over all the more prominent candidates and the selection of Judge Swayne. This was in the early days of the Harrison Administration, and following an election in Florida in which it was generally reported and currently believed there had been the grossest sort of election frauds perpetrated against the Republicans.

The first time I met Judge Swayne after his appointment he told me that the President and the Attorney-General were very much concerned to have the laws of the United States vindicated in the State of Florida, and that the parties who were charged with committing the election outrages should be prosecuted, and particularly that the Attorney-General had impressed upon him the great importance of providing early terms of court with a view that those cases could be taken up. Immediately following this, a great many prosecutions were instituted, indictments found, etc., to bring about the trial and conviction of parties charged with violating the election laws. The election frauds had been so numerous and so many people were involved therein that these prosecutions engendered an intense feeling against the judge and all the officers of the court; particularly was the judge singled out as the prime mover. The feeling was so intense that I know from information received at the time that Judge Swayne's friends regarded it as extremely hazardous for him to travel about his district. On one occasion on which I went to Pensacola to sit in the circuit court I found that Judge Swayne had not arrived on time, but through the agency of his friends had traveled up through Georgia in a roundabout course to come to Pensacola to avoid traveling on the direct road, where it was feared he would be insulted, if not worse treated. Anyhow, the matter resulted in Judge Swayne from that time on being persona non grata with the Democrats in Florida; and I think that those political troubles, accompanied by a certain lack of tact in dealing with hostile lawyers, is the true cause of Judge Swayne's present difficulties. Following this unpopularity, Judge Swayne's district was changed, largely for the purpose of punishing him. The change of the district resulted in his being, as it were, legislated out of his district. He had established a residence in St. Augustine and was there living with his family, consisting of a wife and four or five children. After his district was changed, in order to comply with the alleged spirit of section 551 of the Revised Statutes, it became necessary for him to dispose of his residence in St. Augustine and acquire and move to a residence in the western part of the State. In this respect, I am informed that he at once declared a residence and domicile in the western part of the State and followed that up with more or less activity by acquiring a house and other things, all taking four or five years. I understand that nonresidence in the district, as changed by law, is the main ground of his proposed impeachment. Section 551 reads as follows:

"A district judge shall be appointed for each district, except in the cases hereinafter provided. Every such judge shall reside in the district for which he is appointed, and for offending against this provision shall be deemed guilty of a high misdemeanor."

There is no doubt Judge Swayne resided in the district for which he was appointed, and under the circumstances I think it would be an extraordinary hardship on Judge Swayne to hold him to a very rapid compliance with the alleged spirit of section 551 by removing his residence, when Congress saw fit, as a matter of punishment, to change the limits of the district for which he was appointed. Exactly what proof he will be able to make upon this line I am not fully advised, but being satisfied as I am that the original motive of the prosecution is based on political grounds, and that his district limits were changed to his prejudice, I do not think that a Republican House should vote impeachment against him. About the time also that the district was changed a partisan legislature in the State of Florida passed resolutions calling for Judge Swayne's impeachment on the ground of absence from his district, incompetence, and partisanship. It is practically these resolutions, passed about ten years ago, that now reenacted by the legislature of the State of Florida are, as I understand, considered as evidence against Judge Swayne by the House committee.

When Judge Swayne's district was changed it left him only the business at Pensacola and Tallahassee; it was very little and gave him a good deal of spare time, resulting in his being called to other parts of the circuit more frequently, perhaps, than any other judge. During every business season Judge Swayne has been called to hold court in other parts of the circuit, Alabama, Louisiana, Texas, and in the circuit court of appeals, and the performance of this duty, in accordance with the laws of the United States, has resulted in his being a good deal absent from his district, and much of the absence complained of by the legislature of the State and by interested parties can be ex-

plained on this ground. The difficulties resulting from the trial and conviction of one O'Neal, who was charged with contempt of court for having assaulted and dangerously wounded a trustee in bankruptcy (see O'Neal *v.* U. S., 190 U. S., 36), intensified feeling against Judge Swayne, and at the time great complaint was made that Judge Swayne was out of his district, while then he was holding court in Texas on my designation at the suggestion of the Attorney-General, and was engaged in trying some very important national-bank cases in which the local judge was recused.

I have been thrown a good deal with Judge Swayne in the trial of cases, and I think the charge of incompetency is an outrage. He has a good legal mind and is instructed in law, and I am satisfied he is fully as competent as the average United States judge. One particular charge I noticed made against him is that in nearly all the appeals from his decisions to the circuit court of appeals he has been reversed—only affirmed in about 25 per cent. I have had some examination made of the records of this court of appeals, and I find that out of 68 cases appealed from Judge Swayne's decisions 28 were reversed and the balance affirmed—in other words, about 41 per cent of reversals. Considering that only involved and difficult cases are as a rule carried up on error or by appeal, this showing should be very satisfactory to Judge Swayne and his friends. But such a test is wholly fictitious, for only difficult and involved cases are appealed, and they constitute only a small percentage of the decisions actually rendered by a judge of a court of first instance.

I have written this long letter because I really feel that without the political prejudices against Judge Swayne there would be no impeachment, and that in justice to a southern judge who was a Republican before he was appointed, and who was appointed because he was a Republican, as there are no Republican Congressmen from the South, some of the northern brethren ought to look carefully into the case and be sure that an impeachment ought to be voted before putting a judge to the disgrace of an impeachment, consequent expenses, trial, and tribulation to himself and family resulting therefrom.

You are the only Congressman that I know well enough to write this letter to. I hope under the many pressing duties and engagements which you have you will find time to look into the real merits, if there are any, in Judge Swayne's case.

With continued best wishes,

Very truly, yours, DON A. PARDEE.

Mr. COCKRAN of New York. Mr. Speaker, will the gentleman from Ohio permit a question in relation to that letter which has just been read?

The SPEAKER. Will the gentleman yield?

Mr. GROSVENOR. Yes.

Mr. COCKRAN of New York. Was that letter written with the knowledge by the author it would be read here; had the writer of that letter sanctioned its reading here?

Mr. GROSVENOR. The gentleman from New York ought to wait until the episode is closed before he comes with a criticism.

Mr. COCKRAN of New York. I do not criticise; I merely ask for the fact.

Mr. GROSVENOR. Mr. Speaker, it will be seen that the letter was addressed to me as a confidential communication in last March. Knowing Judge Pardee as well as I did; knowing him as a splendid soldier and a faithful, true man, as he was and has often been described here, I did not believe that he would hesitate to permit me under the extreme circumstances surrounding us here to make public use of that letter, but I did not feel authorized to do it and I may say to the gentleman from New York that he will never have occasion to catechise me upon a question of good faith in the matter of correspondence——

Mr. COCKRAN of New York. I hope the gentleman will not think for a moment that I am in the slightest degree criticising. I merely wanted the House to know whether the letter was intended to be publicly read or was private correspondence. I knew that whatever the gentleman gave would be given with a high spirit of chivalry——

Mr. GROSVENOR. I thank the gentleman very much. I thought the gentleman reflected a criticism which under the circumstances would have been a just one.

Mr. COCKRAN of New York. No; not on the gentleman.

Mr. GROSVENOR. I sent on last Friday a telegram, which I will read in full:

JANUARY 13, 1905.

Hon. DON A. PARDEE, *New Orleans, La.:*

Will you consent that I make public your letter to me about Swayne's case? Very desirous to do so. Answer.

C. H. GROSVENOR.

Very shortly, the same evening, I received this answer:

NEW ORLEANS, *January 13, 1905.*

Have no copy at hand. Remember only general purport. Use your discretion in my behalf and I will be satisfied.

DON A. PARDEE.

I hope that satisfies the gentleman from New York and everybody else who feels that I ought not to have made public that letter.

Mr. COCKRAN of New York. I beg the gentleman will not for a moment think that I in any way questioned his conduct. All I desired was to get the actual facts before the House.

Mr. GROSVENOR. In this connection I wish to deflect for a moment. If I got the trend of the gentleman from Alabama [Mr. CLAYTON] in his speech yesterday, he said that the Davis and Belden cases could not be reviewed by the court above, and therefore a tyranny and an outrage was manifested by the refusal of the judge to treat these distinguished shysters properly and was putting a final judgment upon them when they could have no review.

Now I will read to the gentleman a telegram that came to me voluntarily from one of the best judges in the United States, and I hope that he will make correction in the RECORD. I see his speech has not appeared, or I should have been able to quote him exactly. If I am right and he was wrong, I hope he will, in behalf of maintaining the high character of the bar, correct his mistake. The following is the telegram to which I refer:

Since your wire I feel bound to say judgment for contempt against Davis, Belden, and O'Neal were reviewable in the circuit court of appeals by proper writ. See cases decided at the last term of the Supreme Court.

DON A. PARDEE.

Nobody undertook to review them that way, and they come here and whine, and a great lawyer with an enormous amount of force as an orator tells this unsuspecting and innocent body of gentlemen there was no relief for these men, and that they could not have tested whether or not Judge Swayne made a proper disposition of those cases and had to submit to the tyranny.

Now, I desire in this connection to refer to some of the indications of the very curious character, that I think will strike any lawyer, in the progress of the taking of this testimony.

A MEMBER. Can you conveniently recite those cases referred to?

Mr. GROSVENOR. I can; yes, sir. Judge Swayne is attacked on this floor for not having dignity enough, for not being fluent enough, and because he did not explain sufficiently. He stood as silent as a sheep "is dumb before her shearer," and he opened not his mouth. I desire to read the sort of a chance he had to open his mouth in the presence of one of his shearers. Judge Swayne was charged with using abusive language, for stating that he would not believe a man under oath in connection with the Hoskins case, and it is said that Judge Swayne never made any explanation of that. Now, let us see what sort of a chance he had. On page 593 of the hearing is a question put to him by the distinguished prosecuting attorney, as follows:

Q. You did say that you would not believe your brother if he swore to the story of the books?—A. I have heard that story so often that I will not testify that I said it or I will not testify that I did not say it. I can testify as to what my impression was at that time.

Q. I do not want your impression, but I want your language.

Mr. BUTLER of Pennsylvania. Who said that?

Mr. GROSVENOR. The prosecuting attorney, Liddon. Then follows:

A. I will not undertake to swear to-day whether I said that or not.

Q. You did say emphatically that you would not permit parol testimony about the books?—A. At that time.

Q. Did you limit your statement that you would not hear it at that time, and give any indication that you might hear it thereafter?—A. I can not recall what intimation I gave.

So he undertook to tell what his impression was, and he was simply choked off by the action of a single member of a subcommittee, acting doubtless for himself and the others.

Let me show you how this record appears to an average citizen who is not a lawyer, if you please. Great stress has been laid upon a letter that was forced into this record and makes its appearance here, signed by one Boone, whoever he may be and whatever figure he may cut. When the letter was produced, a member of the committee [Mr. PALMER] put the document in the face of Tunison and said:

Q. Do you admit the signature of Boone?

A letter was sought to be put in evidence written by Boone to Tunison to establish a conspiracy between Tunison and Boone and Swayne. Now, then, there is the fundamental proposition, gentlemen, and some of you are lawyers—all of you are men of common sense. I only read this to get at a characterization, a fair illumination, of every step that has been taken in this prosecution. This question was put to Tunison, who is said to have been the writer of this letter:

Q. Do you admit the signature of Boone?—A. No; I do not admit the signature of Boone.

Mr. MARSH. Who says that?

Mr. LITTLEFIELD. Tunison, representing the respondent.

Mr. GROSVENOR. Then Mr. PALMER said:

We will accept the letter.

You might as well have brought the picture from one of the dead walls of Washington advertising Johnny Dewar's Scotch whisky. "We will accept the letter." They were foiled in the attempt to prove its authenticity.

Judge CLAYTON was not quite satisfied with that sort of acceptance. I will read:

Judge CLAYTON:

Q. Can you tell how you came in possession of that letter?

Now, this is the fellow who received the letter, or who is said to be one of the coconspirators by whom they are trying to prove the authenticity of this letter. This question was put to Judge Liddon.

A. I will state that I do not know that it was ever in the possession of Mr. Tunison.

Now, would not that have put an end ordinarily to a pursuing of that line of consideration? Here was a lawyer representing the prosecution. It purported to be a letter written by a coconspirator and delivered to a coconspirator. Failing to prove that it had ever been received by the coconspirator, or written by the coconspirator, they accept the letter first, and then Judge Liddon says he does not know that it was ever in the hands of Tunison.

Mr. CRUMPACKER. If the gentleman will allow me to interrupt him, is that letter copied into the original report of the committee?

Mr. LITTLEFIELD. Yes.

Mr. GROSVENOR. This letter is one of the buttresses, one of the abutments, one of the eternal principles to save the judiciary of the United States from scandal, in the language of the gentleman from Massachusetts [Mr. POWERS].

Mr. GILLETT. I object to the receiving of it. Counsel says he does not claim that Tunison ever received it. I object to receiving of matters of that kind in evidence. It would not be received as evidence in any court in the world, and I want to go on record as objecting to it.

Now, here is the judicial opinion rendered by which that letter became a formidable weapon in the hands of the prosecution—a formidable piece of evidence. Here is the judicial opinion. If you can find in all the history of the case that Judge Swayne ever looked at that letter, I will vote for impeachment.

A MEMBER. On what page is that?

Mr. GROSVENOR. On page 153.

Judge PALMER. As I understand it, this Boone attempted to oppress this man Hoskins, as a bankrupt in Judge Swayne's court, and Judge Swayne would not permit any proof of his solvency; said he would not believe his own brother; would not allow any trial of Hoskins as to his solvency. We admit this Boone letter.

I wanted to find out now, and Mr. GILLETT wanted to see whether Judge Swayne ought to be assailed even if this halfway proposition was sustainable.

Mr. GILLETT asked:

Was it ever seen by Judge Swayne? I object to it.
Letter from Boone to Tunison & Loftin marked Exhibit ——.
[At this time the letter had not been given to the stenographer.]

God knows where that letter came from; I do not know anything about it. Now, from an absurd performance of that kind we can obtain very little knowledge of its whereabouts.

Now, that is the evidence with which this prosecution is buttressed. A conspiracy is alleged between Tunison, said to be a special favorite of Swayne, and Boone, who conspires with Tunison to do some act. I do not know what it was, and I do not care what it was.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman has expired.

Mr. GILLETT of California. I yield fifteen minutes more to the gentleman from Ohio.

The SPEAKER. The gentleman is recognized for fifteen minutes more.

Mr. GROSVENOR. But when it is traced around, first, the writing of the letter is not proved; second, the delivery of the letter is absolutely negatived; and thirdly, it is shown in the record that Swayne never heard of the letter. That is the basis, I say, upon which a united vote of one side of this House will probably be given to impeach a United States judge for having conspired to prosecute somebody by the name of Hoskins.

Now, I have got very little to say about these other matters of impeachment. I have grown up, in a degree, with all this case. I was a Member of this House when this district was cut in two. I know it was a matter of general notoriety that there was no possible necessity for the additional judge; that it was done for the purpose of injuriously affecting Judge Swayne; and that it did injuriously affect him is instanced by the question now being raised here, whether he resided there or not. The statement made by Judge Pardee explains all that question. When that bill was passed, it undertook to drive him out of the district to which he had been appointed, and in which it is admitted he had been located. When the bill was passed, another judge entered into that end of the district and Judge Swayne had a good deal of trouble in getting a domicile. No doubt he had sacrificed the property that he had lived in. No doubt he was refused accommodation in Pensacola; and the Colorado case, brought into this matter by the distinguished gentleman from Maine, absolutely states the law in the case as clearly and distinctly as it is possible that it should be stated, in which the judge says that he had resided in the district for which he was appointed, and complied absolutely with the section of the statute under which this prosecution is brought.

Now, I have but one little word to say about a very small matter. When I spend a great deal of time trying to impeach a judge of the United States court because he has accepted $2.50 or $3 worth of victuals of an unknown character, of an unknown value, I will turn that prosecution absolutely over to the gentleman from Pennsylvania [Mr. PALMER] and the gentleman from Alabama [Mr. CLAYTON]. Look at the magnitude of it, gentlemen; look at the size of this transaction. Judge Swayne was up here some place in the State of New Jersey, and the receiver of that railroad in Florida, in the dead of summer, wanted him in Florida for some purpose, and sent after him, and probably fed him on the way down. Now, I want to point out to the gentlemen on the other side one of the strong points of their case. They say it was not a matter of very much importance. I understand some of the gentlemen on the other side are absolutely shocked at the idea that such a thing would be insisted upon as the impeachment of a judge for a matter of that character. But they say this judge approved the accounts of the receiver, and that he put into those accounts the bread and butter, and beer, pretzels, and sauerkraut. Point me, gentlemen of the prosecution, to the place in that record where there is any evidence that the receiver ever charged for it or that the judge ever approved an account that covered it, and I will vote for this impeachment. The whole thing is a mere piece of assertion that has not a shadow of foundation in the record. Why, they say presumably the receiver charged for that bread and butter and presumably Swayne approved it. Presumably, gentlemen, he did not charge a cent for it, and presumably he did not approve it, for he did not know anything about it. Now, there is not a shadow of evidence. Search that record and find it if you can. You will find that the naked fact remains that the judge was up here where he had a right to be and he was wanted down there by the receiver of that railroad, who sent for him, and all else is left to the imagination of the prosecuting attorneys.

So much for that. Now, as to the $10 a day matter, I want to say that the gentleman from Iowa [Mr. LACEY] did not leave a button on the coat of anybody who talks about that ten-dollar transaction. I do not want to go into any reminiscences, and I do not want to talk about what the judges of the courts of the United States have done. The gentleman from Pennsylvania [Mr. PALMER] stood up here the other day and said that there was not a shadow of evidence that any of the judges had decided that they had a right to this $10 a day. And yet the gentleman made statement after statement on matters that came to his knowledge, and then said there was no proof in the record. Why was not that proof in the record? Why were not the reasons and grounds upon which Judge Swayne took that $10 put into the record? Why not? I say that if a convict stood in the presence of a court, any civilized court on earth that understood the first principles of the law of this country, with a record such as was made upon that question in this record, he would get a new trial as quickly as the judgment of the court could grant it to him.

Gentlemen, what is the gravamen of this offense of Judge Swayne? What is it? It is the scienter. It is that he knowingly, corruptly, and unlawfully took money that was not coming to him. You can not make a technical violation of a law and punish a judge for it any more than you can punish a Member of Congress for it. Would not a Member of Congress feel rather cheap if somebody should want to impeach him for having drawn $22.50 as his allowance of mileage when in fact he had not paid out a cent of it? Well might the gentleman who spoke the other day say, Let him that is without fault among you cast the first stone.

But let us see now. This judge is charged with the wicked, the criminal, the highly criminal charge of having purloined money out of the Treasury of the United States. He is called upon to account for why he did it, and he makes the attempt, and here is the answer he got:

Mr. LIDDEN. We offer that paper which has just been read, Exhibits B and C.

I do not know what they were.

By Mr. HIGGINS:

Q. The accounts of all the judges pass through your division of the United States Treasury Department?—A. Yes, sir.
Q. And as chief of that division you have supervision, and it is your duty to inspect all of them?—A. Yes, sir.
Q. I observe here that the charge as certified by Judge Swayne for

any particular number of days seems to be at the rate of $10 a day?—A. Yes, sir.

Q. Is that usual?

Mr. PALMER—

Now, they had reached the point of time when Judge Swayne could have said, first, I construe the law of my country as giving me that $10 a day; second, every Department of this Government from the day of the passage of this act has given a united, a unanimous, consecutive, and sustained construction of that statute. Furthermore, the House of Representatives, and ultimately the Senate of the United States, after having agreed upon this law, put their own construction upon it and I want to offer evidence of it. And then he might have gone forward and said 64½ per cent of the judges of the United States have put this construction upon this statute, and I have joined in that construction; and, gentlemen of the committee, before you charge me with a crime, let me tell to my tryers that I have acted upon the construction given during all the period of time, yea, from the time it was enacted and before it was enacted, given in the controversy between the two sides of the House.

"But," says the gentleman from Pennsylvania [Mr. PALMER], "I don't think that of any consequence." A man charged with taking money undertakes to explain it; undertakes to prove, as the Supreme Court says, what was absolutely conclusive answer to the whole of it, and a single member of the subcommittee says: "I don't think that amounts to anything; get out." [Applause.]

Mr. PALMER. Will the gentleman allow me to interrogate him?

Mr. GROSVENOR. Yes.

Mr. PALMER. Is the gentleman aware that the entire Judiciary Committee, including the gentleman from Ohio, who handed him the book, said that the ruling was right?

Mr. NEVIN. Mr. Speaker, may I interrupt the gentleman from Pennsylvania for a moment? The gentleman from Pennsylvania is utterly mistaken as to that. I never said it was right, I never believed it was right, and I know it was wrong. [Applause.]

Mr. LITTLEFIELD. The gentleman from Ohio [Mr. NEVIN] did not sign the minority views.

Mr. PALMER. I am mistaken about that; the gentleman from Maine did sign them.

Mr. LITTLEFIELD. He did, and he has not changed his views.

Mr. PALMER. So we have sixteen out of the seventeen members of the Judiciary Committee declaring that the ruling was right, and any man who made the pretense of being a lawyer, with two grains of gray matter in his brain, would know that it was right. [Laughter and applause.]

Mr. NEVIN. If it is a question of gray matter, we had better weigh our brains. I thought it was a question of logic.

Mr. GROSVENOR. The utterance of the gentleman from Pennsylvania is characteristic of his entire record and of his entire career in this persecution. [Laughter and applause.] I have no answer to make to such an attack as that. The gentleman from Pennsylvania will find out at the end of this persecution—he will ascertain distinctly by the record of the two bodies of the Congress where the gray matter is, and where the vicious spirit of persecution and bitterness is assumed by a person claiming to be a lawyer, and who palms himself off as a fair trier of fact. [Laughter and applause.]

Now, suppose Judge Swayne had made that ruling under the decision here of the Supreme Court that covers this whole question.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. GILLETT of California. Mr. Speaker, I yield ten minutes more to the gentleman from Ohio.

Mr. GROSVENOR. Now, what was Mr. Higgins trying to do? Let us see whether Higgins and the Supreme Court of the United States are the equal of the opinion rendered by the committee.

Mr. HIGGINS. The point that I make, if the committee pleases, is that the action of the several and respective judges in the courts of the United States are practically a judicial interpretation of the statute—as to what it means—and that if the judges are informed to furnish the certificates at the rate of $10 a day, it is their interpretation of its being proper and right under the statute.

Mr. PALMER. It follows that because some other judge expended $10 a day that Judge Swayne expended $10 a day.

"Some other judge," see? "Some other judge." They were trying to prove that there had been a continuous and uniform and universal interpretation of this law, and it is cut in pieces by the gentleman from Pennsylvania, who says, "some other judge," a single judge.

Now, my distinguished friend from Ohio, who, for a young man, has some gray matter and some knowledge of the law, and will be heard from in this House in the future, brought to me and the House this decision in the United States court. I do not want to tell where he found it, or how he happened to be cited to it, but I may say this, that it was the foundation upon which the great body of the judges of the United States based their opinion, upon which Judge Swayne acted. When the gentleman from Ohio presented this book yesterday the gentleman from Alabama [Mr. CLAYTON] said that this statute was a hard statute to understand; that was the effect of what he said. He said that the one under consideration now was a very plain statute; that it did not need any construction.

Now, the statute under which this controversy grew up in the case of United States against Hill (120 U. S. Reports), reported from the circuit court of Massachusetts, involved a construction of the statute that was as simple and as plain as the English language, it seems to me, could have made it. It provided that the clerks of court should turn into the public treasury all of their fees above a certain sum of money. The clerk held that the $3 each for naturalization papers was not a fee within the meaning of the statute.

It went on and on and was considered by the departments here and payments made under it just exactly as was done in the Swayne case, and the Supreme Court of the United States, without spending any more time upon the subject, said that the contemporaneous rulings of the departments and the contemporaneous appropriations by Congress and the contemporaneous rulings of the courts settled the construction of the statute, and the statute stands to-day unrepealed, unamended, and in full force; and it was that law, that decision, laid down by the highest court in the United States or in the world, under which Judge Swayne acted, and if he is to be impeached here these gentlemen, these purifiers of the bar and the bench and the country, ought to proceed at once to assail the United States judge for the district of Massachusetts and the United States Supreme Court. [Applause.]

United States *v.* Hill.

Error to the circuit court of the United States for the district of Massachusetts.

Argued December 29, 1886; decided January 31, 1887.

It was the custom in the United States courts in Massachusetts, from 1839 to December, 1884, known and approved by the judges, for the clerk to charge $3 as fees in naturalization proceedings. The clerk of the district court never included those fees in his returns. That fact was known to the judges to whom his accounts were semiannually exhibited and by whom they were passed without objection in that particular. Relying on that custom and believing those fees formed no part of the emoluments to be returned, the clerk of the district court appointed in 1879 did not include those fees in his accounts. This was known to the district judge when he examined and certified the account, and his accounts so made out to July, 1884, were examined and adjusted by the accounting officers of the Treasury. Under a rule made by the district court in 1855 the clerk had charged and received the $3 as a gross sum for examining in advance of their presentation to the court the application papers and reporting to the court whether they were in conformity with law, and had made no division for specific services, according to any items in the fee bill in sections 823 et seq. of the Revised Statutes. In a suit brought in December, 1884, on the official bond of the clerk, against him and his surety, to recover the amount of the naturalization fees: Held—

(1) The provision in section 823, taken from section 1 of the act of February 26, 1853 (chapter 80, 10 Stat., 161), that the fees to clerks shall be "taxed and allowed," applies, prima facie, to taxable fees and costs in ordinary suits between party and party prosecuted in a court, and there is no specification of naturalization matters in the fees of clerks.

(2) The statute being of doubtful construction as to what fees were to be returned, the interpretation of it by judges, heads of departments, and accounting officers, contemporaneous and continuous, was one on which the obligors in the bond had a right to rely, and, it not being clearly erroneous, it will not now be overturned.

This was an action at law to recover from the defendants in error fees which it was claimed the clerk of the district court of the United States for the district of Massachusetts should have accounted for, the defendants being the clerk and his bondsman. Judgment for defendants, to review which this writ of error was sued out. The case is stated in the opinion of the court.

Mr. Assistant Attorney-General Maury for plaintiff in error.

Mr. John Lowell for defendant in error.

Mr. Justice Blatchford delivered the opinion of the court.

On the 5th of February, 1879, Clement Hugh Hill was duly appointed clerk of the district court of the United States for the district of Massachusetts by the judge of that court. On the same day he and William Goodwin Russell and another person executed a joint and several bond to the United States in the penal sum of $20,000, conditioned that Hill, "by himself and by his deputies," should "faithfully discharge the duties of his office, and seasonably record the decrees, judgments, and determinations of the said court, and properly account for all moneys coming into his hands, as required by law." The statute requiring a bond, in force at the time, as section 3 of the act of February 22, 1875, chapter 95, 18 Stat. L., 333, which required the clerk to give a bond, with sureties, "faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments, and determinations of the court of which he is clerk."

This suit was brought by the United States against Hill and Russell on said bond by a writ dated December 4, 1884, claiming $22,000 damages. The declaration alleges, as a breach of the bond, that Hill "has not properly accounted for all moneys coming into his hands, as required by law, according to the condition of said bond." The answer of the defendant denies that allegation, and avers that Hill "has made full and sufficient returns of all moneys received by him, as required by law, and that he owes no sum of money to the said United States."

The following agreed statement of facts was filed July 1, 1885, signed by the attorneys for the respective parties, and upon it the case was, by written agreement, submitted to the decision of the court:

"The defendant Hill was appointed clerk of said court on the 5th day of February, 1879, and duly qualified as clerk, and the defendants gave the bond, a copy of which is annexed to the declaration. As clerk he has made half-yearly returns of fees and emoluments received by him, but he has not included in the same the amounts received by him for the naturalization of aliens in the district court.

"It has been the custom in the United States courts in the district of Massachusetts for a long time, not less than forty-five years before the date of the writ in the present action, and known and approved by the judges, for the clerk to charge $1 as a fee for a declaration of intention to become a citizen, and $2 as a fee for a final naturalization and certificate thereof; and the clerk of the district court has never included these in the fees and emoluments returned by him, and this has been known to the judges to whom the accounts have been semiannually exhibited, and by whom they were passed without objection in this particular. Following this custom, and believing and being informed that these fees formed no part of the emoluments to be returned to the Government, the defendant Hill has not included these amounts in his accounts, and this was known to the judge when his accounts were enamined, and he made on each a certificate in the form annexed; and his accounts so made out, up to July 1, 1884, have been examined and adjusted by the accounting officers of the Treasury Department.

"The clerks of the several courts of the State of Massachusetts made similar charges for like services and made no returns to the treasurers of the counties of the fees so received until the passage of the statute of the State of 1879, chapter 300.

"If, upon the facts before stated and agreed, the court shall be of the opinion that the said fees charged by the defendant Hill in respect to naturalizations, or any part thereof, should have been returned in his accounts to the United States as part of the emoluments of the clerk, from which his compensation is to be taken, in accordance with section 833 of the Revised Statutes, and that the settlements and adjustments of his several accounts, as above mentioned, constitute no defense to this action, the case shall be sent to an assessor to ascertain the amount due the United States in accordance with the law laid down by that court, unless the parties shall, within fifteen days after the announcement of the opinion of the court, agree upon the amount.

"The blanks used for the report of clerks' fees and emoluments, and the blanks used in naturalization of aliens, may be considered as part of the record of the case.

"The instructions of the Department of Justice to the several clerks, dated January, 1879, may be read for any purpose for which they are properly applicable; but neither the defendant Hill nor his deputy, Mr. Bassett, has any recollection of receiving or seeing such a circular before October, 1884.

"The court may draw such inferences from the above facts as a jury might."

Section 833 of the Revised Statutes provides that every clerk of a district court shall, "on the 1st days of January and July in each year, or within thirty days thereafter, make to the Attorney-General, in such form as he may prescribe, a written return for the half year ending on said days, respectively, of all the fees and emoluments of his office, of every name and character, and of all the necessary expenses of his office, including necessary clerk hire, together with the vouchers for the payment of the same for such last half year. He shall state separately in such return the fees and emoluments payable under the bankrupt act * * * Said returns shall be verified by the oath of the officer making them."

Section 839 of the Revised Statutes provides that "no clerk of the district court * * * shall be allowed by the Attorney-General * * * to retain of the fees and emoluments of his office * * * for his personal compensition, over and above his necessary office expenses, including necessary clerk hire, to be audited and allowed by the proper accounting officers of the Treasury, a sum exceeding $3,500 a year for any such district clerk, * * * or exceeding that rate for any time less than a year."

Section 844 provides that every clerk shall, "at the time of making his half-yearly return to the Attorney-General, pay into the Treasury or deposit to the credit of the Treasurer, as he may be directed by the Attorney-General, any surplus of the fees and emoluments of his office which said return shows to exist over and above the compensation and allowances authorized by law to be retained by him."

Section 845 provides that in every case where the return of a clerk "shows that a surplus may exist the Attorney-General shall cause such returns to be carefully examined and the accounts of disbursements to be regularly audited by the proper officer of his Department and an account to be opened with such officer in proper books to be provided for that purpose."

The foregoing provisions of sections 833, 839, 844, and 845 were taken from section 3 of the act of February 26, 1853 (ch. 80, 10 Stat., 165, 166), the supervision being changed from the Secretary of the Interior to the Attorney-General by section 15 of the act of June 22, 1870 (ch. 150), establishing the Department of Justice (16 Stat., 164).

Section 846 provides that the accounts of clerks "shall be examined and certified by the district judge of the district for which they are appointed before they are presented to the accounting officers of the Treasury Department for settlement. They shall then be subject to revision upon their merits by said accounting officers, as in the case of other public accounts." This provision was taken from section 1 of the act of August 16, 1856 (ch. 124, 11 Stat., 49).

* * * * * * *

On the foregoing facts and statutes it was contended by the United States before the circuit court, held by the circuit judge and the district judge, that the sums received as fees in naturalization proceedings were "fees and emoluments" within the meaning of section 833, and ought to have been included by the clerk in his returns, on the ground that they were received for services rendered by the clerk in his official capacity, and he was therefore bound to account for them, whether they were or were not chargeable under section 828, prescribing fees for clerks. The circuit court held that the action could not be maintained, and entered a judgment for the defendants, to review which the United States have brought a writ of error.

The opinion of the circuit court, which accompanies the record, and is reported in 25 Federal Reporter, 375, gives the following statement as to the former and the existing legislation of Congress on the subject and as to the action of the courts and of the Executive Departments of the Government: "By the act of March 3, 1791 (1 Stat. L., 217, sec. 1), the compensation of the clerks was fixed at $5 a day for attending court and their travel. To this was added by the act of May 8, 1792 (1 Stat. L., 277, sec. 3), such fees as were allowed in the supreme courts of the State, with a provision that for discharging duties not performed by the clerks of the State courts and for which the laws of the State made no allowance, the court might allow a reasonable compensation. Under these acts the clerks were allowed to retain all their fees and were not required to render any account of them to the Government. The first law requiring returns to be made was the act of March 3, 1841 (5 Stat. L., 427). This act established the compensation of clerks of courts at $4,500 a year, above clerk hire and office expenses, payable from fees only, and required them to pay the overplus into the public Treasury, under such rules and regulations as might be prescribed by the Secretary of the Treasury.

"The next in order of time was the act of May 18, 1842, (5 Stat., 483). That act required the clerks to make to the Secretary of the Treasury semiannual returns, embracing all the fees and emoluments of their office of every name and character, distinguishing those received or payable under the bankrupt acts from those received or payable for any other service. It authorized the clerk of the district courts to retain from the fees and emoluments of his office, above office expenses and clerk hire, as his personal compensation, $3,500 a year, and required him to pay the surplus into the Treasury. It has been stated that the provision in this act as to bankruptcy fees was inserted to change the law, as ruled by Judge Story, that the clerks were not bound to account for fees earned under the bankrupt act of August 19, 1841. The act of March 3, 1849 (9 Stat., 395, sec. 4), establishing the Department of the Interior, transferred the supervision of the accounts of clerks to the Secretary of the Interior. Until the act of February 26, 1853 (10 Stat., 161), the official fees of the clerks remain in substance as fixed by the acts of 1791 and 1792. The act of 1853 was the first uniform statute regulating the fees of the clerks and other officers of the courts throughout the United States. It established the present fee bill, and is reproduced in section 1823 to section 857 of the Revised Statutes. Its provisions in regard to returns to be made by the clerks were the same as in the act of 1842, except that they were to be made to the Secretary of the Interior, as directed by the act of 1849, instead of to the Secretary of the Treasury. Since the act of June 22, 1870, creating the Department of Justice, the returns have been made to the Attorney-General, and supervision of these accounts has been exercised by that officer of the Government."

Referring then to the fee bill of February 26, 1853, as found in section 823 et seq. of the Revised Statutes, the court proceeds: "Upon an examination of the statute it will be seen that it applies to taxable costs in all ordinary litigation, whether at law or in equity or admiralty, and undoubtedly governs the taxation in all actions, suits, and proceedings, civil and criminal, in personam and in rem, in the courts of the United States. But it has not usually been considered, at least in this district, as applying to certain special and peculiar cases, of which the courts have jurisdiction, where only the party asking for the right or privilege is before the court, and from the nature of the case no costs are taxable as in ordinary litigated suits. Of such a character are proceedings under the naturalization laws, under the shipping commissioners' act, and applications to be admitted to practice as an attorney. Thus Judge Shepley early refused to allow the clerk to tax costs by the fee bill on applications under the shipping commissioners' act of June 7, 1872 (17 Stat., 272; Rev. Stat., sec. 4544), for the money and effects of deceased seamen deposited in the circuit court by the shipping commissioner.

"In respect to the naturalization cases, it has never been hitherto understood, either by the judges or the Departments, that the fees of the clerk were for services rendered in his official capacity. At times, especially before elections, these applications are extremely numerous. The papers are usually prepared by the parties themselves or their friends, or more frequently by agents of candidates. The hearings are ex parti, at no stated times, and it is rare that any person appears in opposition. It has, therefore, been necessary, both in the interest of the applicants and for the due and orderly execution of the law and to enable the court to dispose of the cases, that the papers should be looked over and corrected by some person familiar with the law and practice, and in many instances that the witnesses should be examined before the cases were presented to the court for final action. It was for this service that the clerk has been allowed to make these charges to the parties. These are duties which the court has the undoubted right to have performed by some other person than the presiding judge.

"In these cases the clerk acts rather as a person appointed to assist the court in exercising its functions, like a master or examiner in an equity cause, or an assessor in admiralty, or an auditor in a suit at law. It is the universal practice of all courts of large jurisdiction to appoint special officers at the expense of the parties, to make inquiries, investigate details, examine papers, take accounts, make computations, and to perform ministerial acts. Their reports when returned into court and accepted become part of the case, and form the basis of the orders and decrees of the court in the cause.

"It was with this view, to regulate the practice in naturalization cases and define the duties required of the clerk, that Judge Sprague in 1855 adopted the following rules, which have ever since been in force:

"*Ordered*, by the court, that applications by aliens to be admitted to become citizens of the United States shall be presented to the court while in session, and that proof of the facts whereof the court is required by law to be satisfied shall be made by at least two credible and disinterested witnesses, who are citizens of the United States, to be produced and examined in open court.

"*Ordered*, that before such applications are presented, all necessary papers shall be filed with the clerk, who chall report to the court when the application is made, and that he has examined the same, and whether they are all in due form and in conformity with the requirements of law or how otherwise."

This fact, as to these rules made in 1855, was not made a part of the agreed statement of facts, but the counsel in the cause, in this court, stipulated in open court that the facts should be taken as agreed.

The opinion of the court then proceeds: "It is for services rendered under these rules, and as a special officer of the court, and not as clerk, that these fees have been permitted. They were not duties pertaining to the office of clerk. They could have as well been performed by any other person designated by the court for the purpose; as by the district attorney or a commissioner of the circuit court, or an attorney, or any suitable person not an officer of the court."

Reference has been made to the circular of Attorney-General Devens of January 14, 1879, issued to the clerk. In it he says, referring to section 833: "This language embraces every possible fee or emolument accruing to you by reason of your official capacity and does not allow the withholding of any. Whatever is done for you that you

could not do if out of office has an official color and significance that brings it within the compass of the language of the statute." This is undoubtedy a forcible and accurate statement of the meaning of the statute. But the naturalization fees do not come within this rule. They did not accrue to the clerk by reason of his official capacity, and were for work which might as well have been done by him when out of office as when in. It is also to be noticed that this circular calls upon the clerk for "a statement of sums received for searches, for all copies of naturalization papers and oaths, and all other sums received through your office," but makes no mention in terms of naturalization fees. (Regulations Department of Justice, 1884, p. 223.)

No complaint of these fees ever came to the ear of the court from any quarter. On the contrary, this service performed by the clerks has been of great advantage to those seeking to be admitted as citizens. It has had the effect, as originally intended, to simplify the process of becoming a citizen and to make it more expeditious and inexpensive. It saves the parties the expense of employing an attorney, and the fee charged therefor is much less than would be allowed by the fee bill, if the application is to be treated and entered on the docket of the court as an ordinary suit. In rejected cases no fee has been charged. This practice has prevailed for more than forty years, ever since the act of 1842, which first required returns, and has been perfectly well known to everybody conversant with the courts. It was begun by Judge Story and Judge Sprague and has had the approval of all the judges of this district since their day. It has also had the sanction, successively, of the Department of the Treasury, the Department of the Interior, and the Department of Justice. Until this suit was brought it has never been called in question by any accounting officer of the Government; nor has Congress seen fit to put a stop to it by legislation. This construction of the statute in practice, concurred in by all the departments of the Government and continued for so many years, must be regarded as absolutely conclusive in its effect. (Edwards's Lessee *v.* Darby, 12 Wheat., 206; United States *v.* Temple, 105 U. S., 97; Ruggles *v.* Illinois, 108 U. S., 526; United States *v.* Graham, 110 U. S., 219.)

It was stated at the bar that a bill was introduced in the last Congress to require the clerks to make returns of all fees which they should receive for naturalizations and as masters and commissioners, but failed to become a law. If a change in the practice should be thought desirable, it is obvious that it should be made by Congress and not by the courts.

"It is also to be noticed as significant that the clerks of the courts of Massachusetts, under a fee bill much like ours, and a statute requiring them to make to the county treasurer yearly a return 'of all fees received by them for their official acts and services,' were never required to include in their returns the fees received in naturalization cases. (Rev. Stat. of 1836, chapter 88, sec. 15; Gen. Stat. of 1860, chapter 121, sec. 22.) This was changed by the act of 1879 (chapter 300), which defined what the fees in such cases should be, and directed the clerks to include them in their return.

"The decision of the court is that, upon the agreed facts in this case, this action can not be maintained."

Viewing the whole subject in the light in which it appears on the face of the statute, in regard to the fees of the clerks, we are met by the fact that section 823 of the Revised Statutes, taken from section 1 of the act of February 26, 1853 (chapter 80, 10 Stat., 161), provides that "the following and no other compensation shall be taxed and allowed" to clerks of the district courts. This applies prima facie to taxable fees and costs in ordinary suits between party and party, prosecuted in a court. There is no specification of naturalization matters in the fees of clerks. From as early as December, 1839, the practice set forth in the agreed statement of facts has been obtained in the district court in Massachusetts of charging the fees of $1 and $2 as gross sums, in naturalization proceedings, without any division for specific services, according to any item of the fee bill. The act of March 3, 1841, before referred to, the first one on the subject of returns, implied that there should be reports of "fees and emoluments" by the clerk to the Secretary of the Treasury. The act of May 18, 1842, provided for semiannual returns to that officer, and included, specifically, fees and emoluments under the bankrupt act, but the clerk never has included in these returns his fees and emoluments for naturalization proceedings, and his action from 1842 to and including 1884 has been with the knowledge of the successive district judges, to whom his accounts have been semiannually exhibited.

From 1842 to 1849 these accounts went to the Secretary of the Treasury; from 1849 to 1870 to the Secretary of the Interior, and since 1870 they have gone to the Attorney-General. From 1856 the statute has required that these accounts before going forward "shall be examined and certified by the district judge," and that after being sent to the several heads of departments they shall be subject to revision on their merits by the accounting officer of the Treasury Department. The agreed statement of facts shows that this course has been pursued; that the district judge has examined and certified the accounts, knowing that they did not include naturalization fees, and that those accounts had been revised on their merits by these accounting officers for this long series of years, and been examined and adjusted by them with the naturalization fees not included.

With this long practice, amounting to a contemporaneous and continuous construction of the statute, in a case where it is doubtful whether the statute requires a return of the disputed fees, judges of eminence, heads of departments, and accounting officers of the Treasury having concurred in an interpretation in which those concerns have confided, the surety and the present bond, as well as his principal, had a right to rely on that interpretation in giving the bond; and the semiannual accounts of the principal having been actually examined and adjusted at the Treasury, with the naturalization fees excluded, down to and including the one last rendered five months before this suit was brought, a court seeking to administer justice would long hesitate before permitting the United States to go back, and not only as against the clerk, but as against the surety on his bond, reopen what had been settled with such abundant and formal sanction.

This principle has been applied, as a wholesome one, for the establishment and enforcement of justice, in many cases in this court, not only between man and man, but between the Government and those who deal with it, and put faith in the action of its constituted authorities, judicial, executive, and administrative.

In Edwards's Lessee *v.* Darby (12 Wheat, 206, 210) is was said: "In the construction of a doubtful and ambiguous law, the contemporaneous construction of those who were called upon to act under the law, and were appointed to carry its provisions into effect, is entitled to very great respect." To the same effect are United States *v.* Dickson (15 Pet., 141, 145); United States *v.* Gilmore (8 Wall., 330); Smythe *v.* Fiske (23 Wall., 374, 382); United States *v.* Moore (95 U. S., 760, 763); United States *v.* Pugh (99 U. S., 265, 269); Hahn *v.* United States (107 U. S., 402, 406), and Five Per Cent cases (110 U. S., 471, 485). In the case of Brown *v.* United States (113 U. S., 568) the same doctrine was applied, the cases in this court on the subject being collected, and it being said, that a "contemporaneous and uniform interpretation" by executive officers charged with the duty of acting under a statute "is entitled to weight" in its construction, "and in a case of doubt ought to turn the scale." A still more recent case on the subject is United States *v.* Philbrick (ante, 52), where this language is used: "A contemporaneous construction by the officers upon whom was imposed the duty of executing those statutes is entitled to great weight; and since it is not clear that that construction was erroneous, it ought not now to be overturned."

Judgment affirmed.

Now, then, a single point further—what was this change made for—and then I am through. I admit that the statute itself before the change did not say that the judge should be paid his "actual expenses," but by the same rule of construction prior to this time we always did construe it to mean that he had to set up the items of his account showing how much money he had expended. The law was changed and the word "reasonable" was put in—not exceeding $10—his reasonable expenses. From that time to this that is the construction we claim has been put upon that statute, and now we are asked to say that the legislative body of this country passed a law that did not mean anything, made a change in the phraseology of the statute that it is claimed will have no effect, and that Judge Swayne shall be punished for having understood one of the first canons of construction of the law, viz, that when the legislature changes the phraseology of a statute the court shall hold, must hold, that it is done for some purpose, and that the statue amended does not stand as the statute before it was amended.

I cite a case that came to my mind the other day, and I went over to the Supreme Court and put my hand on it in a minute, for I remembered it thirty years ago when I came up against the question and got far the worst of it, standing in the position that the gentleman from Pennsylvania [Mr. PALMER] now stands. I refer to the case of the State, on the Complaints, etc., *v.* Gray (8 Blackford's Indiana Reports, p. 273), where the court lays down the rule that in every case where the phraseology of a statute has been changed the court will construe it to have been done for a purpose. That case is as follows:

The State, on the complaint, etc., *v.* Gray.

Appeal from the Tippecanoe circuit court.

DEWEY, J.—This was a prosecution for bastardy against Gray. The complaint was made by Mary Anne Welch before a justice of the peace of Tippecanoe County; it charges Gray with being the father of a bastard child, of which the complainant had been delivered; that she was an unmarried woman, and was, at the time of making the complaint, a resident of Tippecanoe County, and that the child was with her. The justice issued his warrant; the defendant was taken, and an examination was had before the justice. It appeared in the course of the examination that the complainant arrived in Lafayette, in Tippecanoe County, on the day on which she made complaint, and that she came from New York, where she had previously resided. The justice found the defendant guilty, and ordered him to give bond, etc., which not being complied with, he was recognized to appear before the circuit court. He appeared accordingly; and, on his motion, the prosecution was dismissed for want of jurisdiction in the justice of the peace and in the circuit court.

It is urged, in vindication of the decision of the circuit court, that it did not appear that the complainant was a resident of this State.

As the law stood, previously to the late revision of the statutes, the objection was valid. The language of the former statutes was, "that on complaint made to any justice of the peace in this State by any unmarried woman resident therein," etc., the justice should proceed as therein stated. (R. S., 1831, p. 285; R. S., 1838, p. 330.) The first section of the present statute provides, that when any woman who had been delivered of a bastard child, or who is pregnant with a child, which, if born alive, will be a bastard, shall make complaint to any justice of the peace against the person whom she accuses of being the father of the child, the justice shall issue his warrant, etc. (R. S., 1843, pp. 363, 364.)

It is contended that the change in the phraseology of the statutes is so slight that it shows the legislature did not mean to change the law as regards the residence of the complainant. We can not think so. The qualification of the residence of the complainant in this State, essential to the support of a prosecution under the former acts, is omitted in the present statute, and we are not at liberty to view the change as unmeaning. We are bound to believe that the remedy was designedly enlarged.

But it is further contended that if any change of the law was meant to be made by the late revision the complainant is now required to be not only a resident of the State, but to have a legal settlement in the township where the prosecution is commenced.

This position is attempted to be sustained by the provision of the third section of the bastardy act, which is that if the accused person shall be adjudged by the justice to be the father of the bastard he shall, among other things, "enter into bond to the overseers of the poor of the proper township in the county where such woman (the complainant) has her legal settlement" conditioned to save the county harmless, etc., and by the provision of the twenty-ninth section, that the money on the judgment against the putative father, in a prosecution carried on by the overseers, shall be paid to the overseers of the poor of the township where the complainant shall have "her legal settlement."

We do not view these provisions as having any bearing on the question of jurisdiction. They are directory as to proceeding subsequent to the commencement of the prosecution and must be followed where the facts of the case will admit of it. If the complainant must have a legal settlement before she can institute a prosecution for bastardy, a

year's previous residence in some county of the State will, in general, be necessary. Such a construction of the statute would, in many instances, defeat what we conceive to be its object—the extension of the remedy afforded by the former statutes. It would certainly be inconsistent with the first section, which points out the description of persons entitled to prosecute and which confers jurisdiction on justices of the peace. The residence of the complainant is immaterial. The circuit court erred in dismissing the cause.

Per curiam.—The judgment is reversed with costs.

Cause remanded, etc.

D. Mace for the appellant.

E. H. Brackett and A. M. Crane for the appellee.

Now then, what have we? This statute provided for the payment of the expenses of the judges. It had been construed and acted upon as though the word "actual" were in the statute, and then came the legislature and practically struck out the word "actual" and put in the word "reasonable." Now, I say there is not one particle of legal testimony in this record that shows any action under the charge. I say that every particle of that testimony that went to show what Judge Swayne did expend and what he did not expend was illegal, incompetent, and futile. Why? Because the statute provides that he shall be paid his reasonable expenses, and there is no evidence tending to show that he took a dollar in excess of his reasonable expenses. So, Mr. Speaker, instead now of protecting the courts of this country by impeaching this man, the argument is made here that if somebody comes around in your dooryard and slanders you and says you are a liar or that you have cut down a shade tree or are a thief, you must go and hunt up the prosecuting attorney—that is the argument of the gentleman from Pennsylvania [Mr. PALMER]—and say: "For God's sake, Mr. Prosecuting Attorney, indict me in the grand jury room, so that I may have an opportunity to clear my skirts." That is the argument that is made here—tarnish this man, put him to an expense that will be ruinous, blackmail him to the extent of his expenses in any event, so that he may have a chance to clear his skirts! That is the argument. If you would protect the courts of the United States in the dignity in which they stand, if you will add another period of seventy years to a period of nonimpeachment in the United States, teach the little people who are disappointed at the judgments of the judges of the courts of the United States that their remedy shall not be, first, in a political convention [applause], then in a political legislature, and then in an impeachment of his character—an impeachment begged for, plead for, prayed for. God alone knows the efforts that have been made. I do not say that any of them are illegitimate, but I do say that if there was here a worthy case for this impeachment there would be no necessity for this personal appeal to Members. [Prolonged applause.]

Mr. PALMER. Mr. Speaker, I yield thirty minutes to the gentleman from New York [Mr. COCKRAN].

[Mr. COCKRAN of New York addressed the House. See Appendix.]

Mr. GILLETT of California. I yield fifteen minutes to the gentleman from Pennsylvania [Mr. MOON.]

Mr. NEVIN. Mr. Speaker, will the gentleman yield to me five minutes now?

Mr. GILLETT of California. Yes.

Mr. BRANTLEY. Will the gentleman yield to me to make a request of the House?

Mr. NEVIN. Yes; I yield for a request.

Mr. BRANTLEY. Mr. Speaker, I ask unanimous consent to revise and extend in the RECORD the remarks that I delivered yesterday.

The SPEAKER pro tempore. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. NEVIN. Mr. Speaker, although a member of the committee to which this matter was referred, and although I have followed it carefully from its inception until now, I purposed to say nothing to the House on the question until the gentleman from Pennsylvania [Mr. PALMER] this morning mistakenly quoted me as favoring at least three of these articles of impeachment. He said that when the question had been asked before the subcommittee as to what was the custom of the judges on the Federal bench as to certifying to $10 a day or their actual expenses, and when he had held that that question had nothing to do with this case, that the members of the Judiciary Committee, myself among the number, had agreed to the correctness of that holding. I want to say that I disagreed with his holding then, and I differ from him now.

If this statute were so clear, so explicit, so open to but one construction and conclusion as that anyone who did anything other than to certify the actual and necessary expense of each day would plainly violate the law, then I concede the gentleman's proposition that it would make no difference whether one judge or a hundred judges or all the judges together had done so, they would have in such case violated that statute. Such a construction of the law being conceded, it is true that their action and conduct would throw no light upon the question as to Judge Swayne. But the very question at issue before that subcommittee was, did he violate the law; did other judges understand and so construe the statute; did other Federal judges certify as did Judge Swayne? To hold that you could not prove this to be the custom was simply begging the question. The gentleman from New York [Mr. COCKRAN], who has just spoken, says that he does not believe that Judge Swayne is liable to impeachment or that he should be impeached because he construed the statute in the way suggested, viz: That for each day a judge held court as set out in the statute he might receive for his expenses $10 a day upon so certifying to the same. The gentleman from Pennsylvania [Mr. PALMER] differs from that construction. Now, the question that was presented before this subcommittee by that question was, "How have other Federal judges construed it?" This was the very question submitted.

I read from the printed record of the case:

Q. I observe here that the charge certified by Judge Swayne for any particular number of days seems to be at the rate of $10 a day.—A. Yes, sir.

Q. Is that usual?

Then said Mr. PALMER:

I do not think that is of any consequence—

And proceeds to rule it out. Now, was that question proper? In my judgment unquestionably so. There can be no doubt as to its competency. Its weight is a different matter. The object of the question was to show what the judges believed that statute meant. If it had been a contract coming up before some nisi prius court, and the question had been presented, What does the contract mean? the court would say, "How have the parties construed the contract? How have they acted and operated under it? If it is so clear there can be but one construction, that is the end of it; but if it is open to two or more constructions, then the question always arises, What have the parties themselves done?"

Here was a statute open to more than one construction. Now, what have the judges held as to it? They might have passed upon it by a judicial decision. They can just as well determine it by their acts; and if it be true that a large majority of them—64½ per cent the gentleman from Ohio [Mr. GROSVENOR] said this morning—have construed the law to permit them to certify $10 a day, day in and day out, as their legitimate expense, that would clearly show that Judge Swayne had been guilty of no corrupt practice, and had in his mind no corrupt intent. And yet the gentleman bases three articles of impeachment upon the fact that Judge Swayne has certified $10 a day instead of his actual itemized expenses.

Mr. PALMER. I call the attention of the gentleman from Ohio to the fact that the gentleman from Pennsylvania does not base the articles on that, but that the Judiciary Committee have presented these three articles. I do not care to be held up to odium alone. I want my brethren on the Judiciary Committee to help share some of it with me.

Mr. NEVIN. Oh, certainly.

Mr. PALMER. There seems to be some question here whether Judge Swayne or myself is on trial.

Mr. NEVIN. I did not mean that the odium should be borne by you alone. Let all those who are responsible for the act accept the responsibility. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. MOON of Pennsylvania. Mr. Speaker, I desire at the beginning to congratulate this House on the fact that we are now reaching the end of this dicsussion, and to express my judgment that the three or four days already consumed have done much to render clear and lucid the voluminous amount of testimony taken by the subcommittee in the case. I believe we are reaching nearer and nearer to the vital facts involved therein, and I trust when the time arrives to-morrow for taking a final vote that all that exists in this mass of testimony will have been thrashed out to the absolute comprehension of every Member of this body who is called upon to vote upon these important resolutions. I confess, Mr. Speaker, that I approached the consideration of this case, as I believe a great many Members upon the floor of this House did, prejudiced against, not Judge Swayne, but against any man who should be so accused. I have been educated in so absolute a belief in the purity of the judiciary that I look naturally with distrust upon any man against whom accusations of this kind could be made, and when the gentleman from Florida [Mr. LAMAR] in his first resolution recounted the various crimes committed by Judge Swayne, when

I found therein the allegation that he was entirely unfit to be a judge by reason of incapacity, by reason of his mental and judicial incapacity, and by reason of his alleged flagrant disregard of every principle of justice, I was disposed to look with distrust upon him and believed that his conduct ought to be inquired into.

When I hear on the floor of this House the declaration of the gentleman from Florida that Judge Swayne is the most lawless man in that State; when I read his interview with an Atlanta reporter in which he gives to the world the warning that Cæsar had his Brutus, Charles the Second his Cromwell, and finished it with the intimation that if we refused to impeach Judge Swayne he will find lurking in the glades of Florida the arrow of a Tell or the dagger of a Corday; when the distinguished gentleman from New York [Mr. COCKRAN] in his concluding remarks to-day added the last degree of infamy to his name, crowning him as the American Jeffreys, it seems to me absolutely necessary, as a preliminary inquiry, to inquire who Judge Swayne is.

Mr. Speaker, we have before us only the printed testimony in this case, and I have had some experience in the investigation of such testimony. I have always found it to be very unsatisfactory as compared with the testimony of the living witnesses. It is cold, neutral, and impersonal.

We do not see the characters; we do not understand the motive of their testimony, and I have made it a cardinal principle of investigation, first, in inquiries of a judicial nature, to discover first who are the parties involved, and, second, to discover what is the accusation contained in the testimony upon which we are called to decide.

Therefore, proceeding, Mr. Speaker, to the investigation of who Judge Swayne is, and to the examination of his record for the purpose of ascertaining whether he is the most lawless man in the State of Florida, whether he is the American Jeffries, my attention was attracted at the outset by this fact, as it appears, in that in 1897 the most distinguished gentlemen in the city of Philadephia, which I have the honor in part to represent here—her most distinguished citizens and most eminent lawyers thought that Judge Swayne was a fit man to adorn the Supreme Bench of the United States. I find a group of letters written by famous men in the judicial history of the State of Pennsylvania recommending him to this position. I find a letter written by F. Carroll Brewster, at one time an eminent judge in our State, subsequently our attorney-general, and a brother of Benjamin Harris Brewster, the Attorney-General of the United States under the Arthur Administration—I find a letter written to President McKinley saying that he would honor his Administration in appointing this man to that eminent position. I find a letter to the same effect from the Hon. Hampton L. Carson, the present eminent attorney-general of Pennsylvania, in 1897. I find that Judge Fell, of our supreme bench, a gentleman whose career all of my colleagues from that State will admit is an honor to the State and who has adorned the judicial history of Pennsylvania, a man from whom no money, no position, and no influence could purchase a recommendation, and I find that he said to President McKinley that this man Judge Swayne was fit to occupy a seat upon the Supreme Court Bench of the United States.

Mr. LITTLEFIELD. "Learned, able, and safe."

Mr. MOON of Pennsylvania. Yes; among them was Judge Ashman, a man of distinguished character, and other men of broad prominence, including the mayor of Philadelphia, all eminent men in our judicial and civic history, who urged the appointment of this man to that exalted position.

And, Mr. Speaker, I find from the investigation of this testimony—and I would like to commend the careful reading of these pages to every Member on the floor of this House before he assumes the solemn responsibility to say by his vote that this man is a lawless man—I find that in 1899, after Judge Swayne had discharged his judicial duties in this district for ten years, the entire bar of the city of Pensacola, Fla., sent separate individual letters to the President of the United States urging the appointment of Judge Swayne to the position then vacant on the circuit court judgship in that district—the judicial district including the State of Florida.

That was in 1899, ten years after this man had lived among them and had discharged his duties in his official capacity, and I desire to take the time of the House for a moment, even at the risk of tiring Members, to read one or two extracts from those letters, extracts that bear upon the very question under consideration, the character of the man. I desire to read one from the very prosecutor in this case, the man whose hand never left the grip of these charges until they were ushered into the door of this House. Mr. Liddon, of the firm of Liddon & Egan, on February 1, 1899, wrote as follows:

> We most earnestly urge the appointment of Hon. Charles Swayne, our present United States district judge for the northern district of Florida, to the position of circuit judge of the fifth circuit, under recent act of Congress creating an additional circuit judge.
>
> Judge Swayne has served in his present position for the past ten years and made a most excellent judge, so that he is well qualified by experience for the circuit judgeship. We feel sure his appointment to the position would meet with the hearty approval of the bar and people of our circuit.

I pick one other at random, from Messrs. F. W. Marsh and Buckner Chipley, in which they say:

> We can conceive of no more appropriate appointment than this would be, reflecting credit upon the United States judiciary, and being a just promotion of one who has so efficiently and ably served the interests of the people throughout this portion of the United States. As district judge he has received the respect of every person who has had the pleasure of his acquaintance, and his personal attributes are well fitted for the position.

Mr. Speaker, there were at that time twenty members of the bar of Pensacola, and exactly twenty members of that bar wrote these letters—absolutely every member of the bar of the city of Pensacola. [Applause.] I therefore felt, Mr. Speaker, justified in saying that, in so far as the character of the man attacked was concerned, we have been misled. I therefore stand here and say upon the basis of this testimony that I shall proceed to its investigation with the belief that Judge Swayne is a man of probity, that he is a man of honor, that he is a man of great judicial fitness and of the highest personal character, and I challenge any man among this representative body upon the floor of this House to establish his own character by more complete testimony than this. So much, therefore, for the personal and judicial character of the respondent. Now, let us proceed in the second place to consider the charges against him and the motive of the parties preferring them. Because, bear in mind, the investigation here, in its last analysis and in its final disposition, must depend absolutely upon the motive that prompts both the actors and the accused in this proceeding. Bear in mind that it is an uncontradicted fact that Judge Swayne is 62 or 63 years of age. At the time these letters were written he was then 57 years of age, and, Mr. Speaker, it is a historical and a moral fact that men at the age of 57 do not change so suddenly. It seems to me to challenge human credulity that Judge Swayne should within two years have become the monster that he is depicted.

I say, Mr. Speaker, it seemed to me incredible that this man, in this brief period of two years, could have fallen from the high estate that these gentlemen have given him to a position like that, and I began to make an investigation as to what had brought about this revolution of feeling. I discovered that something had happened, but it had not happened to Judge Swayne. In 1902—and I speak now historically, though I may talk more fully on this subject if the time permits—Judge Swayne inflicted a just and a deserved punishment upon a wealthy man in the city of Pensacola, a bank president named O'Neal. I repeat I shall not now speak of the details of the O'Neal prosecution further than to state that O'Neal then and there began to put into effect an avowed intention of punishing Judge Swayne for having dared to inflict upon him the justice of the law, and I desire to call the attention of the House particularly to what followed. I speak entirely by the record when I say that O'Neal employed counsel at first, three of them, Messrs. Laney, Liddon, and Wentworth; that Mr. Liddon framed the resolutions to be passed by the legislature of Florida; that Mr. Liddon was employed with Mr. O'Neal's money to go before the judiciary committee and make a speech, and Mr. Liddon personally solicited and lobbied with, he says, from ten to twelve members of the legislature to secure the passage of these resolutions; that Mr. O'Neal employed what might be termed a professional lobbyist for that purpose; he employed a man who had been transcribing clerk in the house, employing him because of his large acquaintance with men of the house and particularly because his uncle was an influential member of that body. He employed him for sixteen days and paid him $10 a day for lobbying that bill through the Florida legislature.

Mr. O'Neal, in addition to that, was upon the ground during all this period of time. He was giving champagne suppers to the members of the legislature. He spent from two hundred to three hundred dollars in champagne for that purpose, and actually sent champagne individually to particular members of the house for the purpose of influencing this legislation. All this is clearly established by the testimony. Now, therefore, Mr. Speaker, it seems to me that I am justified here in saying that these charges against Judge Swayne were conceived in personal malice; they were born and brought forth in legislative debauchery; that they were nursed and cradled in a spirit of virulent political animosity, and that they are now brought to the floor of this House with the threat that if we shall refuse to adopt them and refuse to clothe this illgotten, illborn child of sin with our name,

and present it to the bar of the Senate as our legitimate offspring the citizens of Florida will resort to assassination to accomplish his removal. I protest against it, and I will not be a party to such a proceeding. [Applause.] Now, Mr. Speaker, of course, I am perfectly willing to agree that this contaminated origin does not necessarily damn these charges. It causes us certainly to look upon them with suspicion rather than upon the man with suspicion. I say that it does not damn them absolutely. We know that history, both sacred and profane, has taught so that great good may come even out of Nazareth, and it is still possible that there may be some foundation for accusations, notwithstanding the corrupt sources from which they emanate, and I therefore now proceed to discuss the only two remaining, in which there seems, at this stage of the discussion to be any vitality left, viz, that of residence and that covered by the Belden and Davis contempt proceedings.

It seems to me that a popular misconception, a widespread misunderstanding of the testimony upon the question of residence has gained a footing in this House. I have heard a great many people say, and it has been argued here with great earnestness, that Judge Swayne admitted that for two years he was not a resident of his new district. I say that Judge Swayne never admitted anything of the kind, and I want to correct a popular misconception or misapprehension upon that point.

Judge Swayne said, and I challenge you to show that he did not, that when he went from St. Augustine to Pensacola in 1894 he stored his furniture; that he would not move his furniture there because he believed that Congress would restore his district, but that he immediately acquired a residence in the city of Pensacola, the chief city in his circumscribed district, and that in all the various assignments made by him throughout these various four States contiguous to his territory he always registered himself as from Pensacola, and that he began at that time to take steps to establish a home at that place. I refer to this particular point because I happen to know, from conversations with very many Members of this House, that that impression has gotten abroad, that while he believed that a subsequent Congress would restore his district he did not attempt to acquire residence in his new district. That is not true and there is no vestige of testimony in this case of any kind or nature upon which it can be truthfully based. Legally and actually, residence is a question of intention, and nonresidence by a judge in the district over which he presides is made a high crime and misdemeanor, and in order to convict this judge of that crime at the bar of the Senate we must establish by this testimony, beyond a reasonable doubt, that he did not reside in his district.

Does there exist a doubt on this subject here? If so, the legal consequence and effect of that doubt is that the charge falls. Why, Mr. Speaker, can it be seriously argued that there is no reasonable doubt upon that question in this House when the Judiciary Committee itself, from whom these charges emanate, stood 8 to 8 upon that subject, and a powerful minority report contends that his residence is fully established?

Mr. LITTLEFIELD. Nine to eight.

Mr. MOON of Pennsylvania. Well, I am safe in saying they stood at least eight to eight. Therefore, so far as the Judiciary Committee were concerned, there was certainly a reasonable doubt. I am safely within my right when I say to-day either a majority, or at least a respectable minority, here believe that his residence was in Pensacola during that time, and therefore the present attitude of this House establishes the fact that there is reasonable doubt. And, gentlemen, in the solution of that reasonable doubt, if you wish it solved what testimony would you like to have to solve it? I confess if I were upon the bench as a judge I would say, "Bring me testimony of his neighbors; bring me testimony of the people with whom he lived, testimony of the people who did business with him, of the people who knew his coming in and going out from day to day, and let us know what these men understood about him." That would resolve all reasonable doubts in my mind, and I propose to bring you that testimony. I refer again to these letters. When in 1899 the united bar of Pensacola said to President McKinley, "This man is a man of the highest attainment, this man is a man fit to adorn the circuit bench, this man is a law-abiding citizen," no argument in the world can convince me of the fact that they knew at that time that he was a criminal, and that instead of being advanced to the circuit court bench he ought to be advanced to the bar of the Senate for trial for high crimes and misdemeanors. They never dreamed for a moment at that time that he was not a citizen of the State, and that, gentlemen, was in 1899, five years after the district was changed.

I say, therefore, upon that point, resolving that reasonable doubt, the testimony of the neighbors of Judge Swayne, the lawyers of his court, given before any question arose of impeachment, is conclusive. Therefore I ask you to say, gentlemen, that upon this specification, whatever you may do with regard to the others, you can not present him to the bar of the Senate for trial against the protest, against the united evidence of the members of the bar of Pensacola. Of course everybody concedes that immediately after 1899 he did acquire a residence and without any doubt complied with all the requirements, even to the minds of the most skeptical, and I repeat that beyond all reasonable doubt his legal residence, his strict compliance with all the requirements of the law, has been fully and absolutely established.

Respecting the contempt proceedings, the second important charge in this proposed indictment, I suppose there is nothing about this whole case that has attracted so much attention as the punishment of Hoskins, Davis, and Belden for contempt of court in 1901, and it does seem to me, Mr. Speaker and gentlemen, there never was a clearer case presented, and that there has never been any legal question that I have heard discussed in which I have seen so much misapprehension existing as upon that. The gentleman from Ohio [Mr. GROSVENOR], I think, fittingly and aptly stated this morning that upon a legal proposition this body, largely composed of lawyers, does seem to be very much astray. Now, let me give you a simple narrative of what occurred; but first of all, gentlemen, let me show to you what the testimony reveals. Why, the case of Florida McGuire is the most remarkable case in this country. It is the Jarndyce *v.* Jarndyce of American judicial history. It has been in litigation, according to the books, for twenty years. Prior to the time Judge Swayne was called upon to try it it had been tried eleven times. The time that they discontinued it made twelve times, and they subsequently retried it, which made thirteen. And let me tell you another thing, that every other judge that attempted to try that case was maligned and blackened by these people. They accused every judge who previously tried that case of holding property in that tract. They accused Judge Maxwell and Judge McClellan and assailed them with the same bitterness with which they assailed Judge Swayne.

The carried the previous cases to the circuit court of appeals, and every time they lost their case, and let me tell you further that, after discontinuing this case and beginning it again, when the time for trial arrived they did what they did not attempt to do here—they filed of record a charge that Judge Swayne was a party in interest upon the same testimony presented to us—they made it a question of fact in the cause. It was decided against them, and it was carried by them to the circuit court of appeals, and the circuit-court judge sustained the decision of Judge Swayne and said that the testimony revealed that he had no interest to disqualify him; that he dare not under the facts recuse himself, and that he ought to try the case.

Therefore all this speculation, all this dramatic oratory upon the question of the necessity for Judge Swayne's recusing himself in that case, is settled by the decision by the highest court of appeal to which it has yet gone. Now, with that knowledge of the facts in this famous case, let me tell you what occurred in this court in that November term about which so much has been said. I appeal to the record to establish what you know, that in October they wrote a letter asking him to recuse himself, telling him that intangible rumors were floating about town. You know that he came to Pensacola on the 5th, and on the day after his coming he replied to their letter, giving them all of the facts of the case and establishing fully his right to try the case. The question has been asked here, Why did he not answer that letter before? Why, if you stop to reason for a moment, gentlemen, you will wonder almost why he did not punish them for contempt for writing that letter. That is not the way to take a step in a legal proceeding to write a personal letter to a judge. The law of the State of Florida points out clearly the steps that are to be taken in order to get a judge to recuse himself. You must follow the practices of the court; you must substantiate with affidavits all allegations; you must reduce floating, intangible rumors into solid substances; you must affix your affidavit to that protest, so that in case of misrepresentation you will be guilty of perjury. And these men did what? They wrote a personal letter, in violation of every principle of judicial ethics and in violation of every principle of practice. They wrote a personal letter to Judge Swayne asking him to recuse himself.

Gentlemen, they knew how to obtain his recusation. They had tried it on a previous occasion in this case. They tried it subsequently, and made a record; but on this occasion wrote a letter. When he came he called them before the bar of the court and after stating fully that he had no interest, either legal or equitable, in this property, he notified them that there was no formal motion of record for him to recuse himself, and there-

fore when the case was reached he should try it, indicating to those people that if they wanted to make a legal record upon this point, there was plenty of time to do it. He said in effect, "You have only written to me personally; you have appealed only to the judicature of my own mind. Now I tell you I do not own the land. I tell you all the circumstances, that I attempted to purchase the land, or my wife did. I found there was a quit-claim deed instead of a warranty deed, and on inquiry I found that it was in the tract involved in my court, and I abandoned all thought of the purchase instantly. If you desire to raise this question in the case you have not appealed to the jurisdiction of the court by proper pleadings." Why, any lawyer upon the floor of this House will admit that in so solemn a proceeding as that, which refers to the jurisdiction of the court, to try a cause it must be put upon the record by formal and regular proceedings and can not be left to chance and to loose letters and vague rumors.

Now, one thing seems to have been lost sight of. They did not content themselves with writing a letter to Judge Swayne, but also wrote to Judge Pardee. They told Pardee what they had done. Pardee gave them instructions. Pardee said to them: "All right, go on and make your record. It is a matter reviewable; you can not suffer any injury by it." And yet in the face of this positive direction from Judge Pardee, of the circuit court, and this plain intimation of Judge Swayne, the trial judge, what did they do? They did nothing.

They abandoned then and there all steps toward requesting that he recuse himself. They accepted as absolute verity his statement in regard to the title and did not indicate any doubt of his statement at all. Thus matters proceeded until Saturday afternoon, when the case was called for trial, and, when application was made for a continuance until Thursday ensuing, Mr. Davis says Judge Swayne was disposed to permit it. He wanted to grant upon their motion the delay requested, but Mr. Blount, representing the defendant, bitterly opposed it. He said, "I have tried this case eleven times; here I am prepared to try it now, and I have subpœnaed my witnesses. I know that the witnesses for the plaintiff, or 90 per cent of them, live in Pensacola and can be produced in court forthwith," and he opposed any continuance, except under the rules of the court. Blount was within his legal rights, and Judge Swayne was compelled to deny the motion for continuance except for cause shown. He did not, however, order the case to be tried, but said "Come in on Monday and make your application under the rules of the court—show proper grounds and I will grant your request." His conduct was in the highest sense judicial and fair. He refused their groundless request for a continuance because the opposing counsel insisted upon his legal rights and gave them an opportunity on Monday to show cause and evidenced a disposition to comply with their request.

This closed their proceedings in court—they did not then resume their protest against his right to try the case, and they had not filed any petition or made any record to that end—they had legally and wholly acquiesced in the truth of his statements and recognized his absolute qualification to proceed with the case, and they left the court room with the agreed purpose of coming into court on Monday morning and of resuming their application for a postponement to Thursday under the rules of court.

Now, Mr. Speaker, before proceeding to draw any deductions from these facts, let me call attention to a fundamental principle of law that has been entirely overlooked in this discussion. I regard it of controlling importance because in the minds of a substantial number of the Members here there exists this thought: Why did not Judge Swayne recuse himself, anyhow?

It was a delicate question; they had raised it, and whether they had any right to do so or not, he could very easily have acquiesced and had another judge try the case. There was no difficulty in that, and at the utmost it was a matter of indelicacy on the part of Judge Swayne.

And I fear there are people here who are of the opinion that the unlawful and revolutionary conduct of these attorneys is in some sense justified by that belief. Let me tell you, gentlemen, that that is not the law. I shall show you that the law required Judge Swayne to try that case, if there was no ground to recuse himself, as absolutely as it required him to refuse to try it if grounds for disqualification existed. He is appointed and sworn to try the cases in that district, and there can be no legal trial of any case in that district by any other judge under the act of 1850, providing for the assignment of judges, except for two causes, which must appear of record, namely, the illness of a judge or his disqualification to try the case.

Mr. LITTLEFIELD. You mean there could be no legal failure on his part, except for those two causes?

Mr. MOON of Pennsylvania. Yes; except for his disqualification or his sickness. And I tell you that in order to have recused himself from the trial of that case Judge Swayne would have been obliged to certify to Judge Pardee that he had an interest in that property which prevented him from trying the case, and then, gentlemen, there would have been a false certificate in this case, of infinitely more significance than those about which so much has been said. The law upon that point is clear and unmistakable. It is not left to the whim or the caprice or the mere judgment of the judge. He must be convinced of the fact that there are reasons for him to recuse himself, and bear that in mind, that any verdict rendered by a substituted judge where the ground for the transfer did not lie would be a mistrial.

Mr. LITTLEFIELD. The defendant had a right to insist that he should go on with the trial of the case.

Mr. MOON of Pennsylvania. Yes. Now, therefore, Mr. Speaker, this is the legal view of the situation. Now, as to the legal form of procedure for disqualifying a judge, the statutes of the United States have no provision upon this subject, and every lawyer knows that where the statutes of the United States are silent upon a point of procedure the statutes of the district in which the court is held prevail; and the statutes of Florida provide a method by which a judge shall be called to recuse himself, and under the rule of law of which I have spoken that method was the law of this case upon that point; and the law of the State of Florida provides that the application must be made by affidavit setting forth the facts relied upon, an affidavit by which the party making the application is responsible for their truth. It provides for a trial of this fact before the judge, the making of a record in the case upon this point, and the establishment of fact thereon by a judicial finding, which involves the question of the jurisdiction of the court, and is reviewable by the court of appeals.

Now, with this view of the duty of these attorneys and with this review of what they did, I will ask you to go with me, gentlemen, to that little grocery store in Pensacola on that November night; see that little corner grocery, ordinarily the scene of petty merchandising, transferred for some inexplicable reason into the consulting chamber of a counselor; see gathered around that counter these three lawyers engaged in what I shall consider a criminal conspiracy to defeat justice.

Mr. WM. ALDEN SMITH. Will the gentleman kindly name the three lawyers?

Mr. MOON of Pennsylvania. Mr. Belden, Mr. Davis, and Mr. Paquet. At that hour of night a writ was issued, after the courts were closed, at nearly 8 o'clock in the evening. First of all a præcipe was issued, which is the custom there. Mr. Belden, who was sick in bed, was brought down from his hotel to sign that præcipe, and instantly a scurry was made for the clerk of the court. The clerk had gone home, of course. The courts were closed. The clerk of the court was found and told that that writ must be issued that night, apparently, as the testimony disclosed, against his protest. He was told it must be issued that night, and after the writ was obtained, bearing the seal of the court, a seal imposed at an hour, I venture to say, the parallel of which does not exist in the judicial history of Florida, the sheriff was sent for. The sheriff was found somewhere, and positive instructions were given to the sheriff that that writ must be served that night.

Mr. LITTLEFIELD. The case shows that Monday would have been ample time.

Mr. MOON of Pennsylvania. It does not need any argument to prove that, because Judge Swayne was to sit there on Monday to hear this case. They had an engagement in court with him on Monday to try the case. But, Mr. Speaker, and gentlemen, here is the significant sequel of that remarkable proceeding: As soon as the sheriff has departed and the service was guaranteed, then little Mr. Prior paddled down to the newspaper office, with a paper scarcely yet dry, written by Paquet, which is heralded to the world the next morning, in flaming headlines, that there is a new move made in the Florida McGuire case, and which, in effect and in language, says that suit has been brought against Judge Swayne to test the title to a piece of ground, a suit for the possession of which is then pending in his court. Now, I want to state this proposition: If among any ten candid men of ordinary intelligence nine of them will not decide absolutely that the object of that suit was that newspaper publication, then I will vote for the impeachment of Judge Swayne upon this article. Bear in mind, gentlemen, that suit never was proceeded with any further. Bear in mind that the very præcipe itself was stolen from the office of the clerk, and to this day has never been returned. To use the language of the distinguished gentleman from Mississippi, whom I see before me,

that famous lawsuit died a-borning. It was intended as the basis for the newspaper publication, and when the newspaper publication had been secured it died then and there.

I repeat, if it is not the judgment of every man of intelligence uninfluenced by partisan bias, the sole object of that suit, at that witching time of night, when churchyards yawn, was to give basis to the newspaper publication, I will vote for this article of impeachment.

Now, our opponents say, why did they discontinue the suit? It is very apparent to me. On the calm of that cool November Sunday morning, that quiet day in Pensacola, when these three conspirators looked calmly upon their nefarious work of the night before, when they saw what they had done to prepare a record for the continuance of that suit, they were aghast at their own handiwork. Why, the devil himself would not have had the hardihood to go in on Monday morning before Judge Swayne and say, "We have made a record, we have given you grounds to recuse yourself, we have asserted that you are the owner of this land in order to obtain a continuance, and brought suit against you." It may be said to the credit of these men that when they saw the position in which they were placed they had but one thing to do. Paquet quietly gets out of town. Paquet shakes the dust of the Commonwealth off his feet and hies into Louisiana.

Mr. PALMER. Will the gentleman state that Paquet went home because his family was sick?

Mr. MOON of Pennsylvania. Oh, he didn't have to go before 8 o'clock the night before. His family was not so sick but that they could wait while he could join in the conspiracy on that Saturday night. [Laughter and applause.]

Now, gentlemen, that is the history of that case, and the decision of the circuit court of appeals in this case has left us but one question to decide. Bear in mind that these contempt proceedings in the lower court were fought on the ground that the court had no jurisdiction; that the bringing of the suit in the State court was not a violation of any rule of procedure that this judge could punish for.

The circuit court of appeals took that thing from under their feet; the circuit court of appeals said: "Yes, they were officers of the court, the court had jurisdiction of the parties and of the subject-matter, and the only thing that was left to the discretion of the court was to say, was this action maliciously done, and was it intended to impede the course of justice?"

Now, if there is any man on the floor of this House who does not believe that it was maliciously done and done for the purpose of impeding the administration of justice, I do not comprehend his process of reasoning.

Another error of law has caused serious misapprehension here, for it is said by some Members here that, while up to this time Judge Swayne was clearly within his right, he is susceptible to impeachment because he exceeded the law in inflicting punishment. Never was a more dangerous and a more insupportable legal proposition advanced than that. I grant you that if that excess of punishment was done maliciously, or with a corrupt purpose, if you can show that he had hatred against these men, and that he distorted legal processes for the punishment of individual hatred and with corrupt mind, then it is an impeachable offense, but I want to say to you that there is nothing in this testimony upon which it can be based, and certainly the fact that he made a mistake of the law is not a scintilla of evidence in that respect.

I want to quote to you, Mr. Speaker and gentlemen, the leading case of impeachment in this country. There has never been an impeachment of a judge but that this has been cited, and if, perchance, this case should go to the bar of the Senate, as I hope it will not, I venture to say that the case I am about to cite will be regarded as the leading case on this question. Almost every lawyer acquainted with impeachment proceedings knows the case of Yates against Lanning, reported in 9 Johnson, New York.

The facts are these: Yates was a man of importance in New York. He was a master in chancery, he was a man of dignity and standing, and a member of the bar. For some contempt of court Chancellor Lanning imprisoned him. He immediately sued out a writ of habeas corpus before Judge Spencer and Judge Spencer discharged him. Judge Spencer held that the commitment was illegal. Chancellor Lanning declared that the discharge was illegal and imprisoned him again. He went back to Judge Spencer and he again discharged him. Again Chancellor Lanning, declaring that the judge had no right to do it, imprisoned the man the third time, whereupon Mr. Yates appealed to the supreme court of the State of New York, and the supreme court held that the commitment was legal and that the discharge on the habeas corpus was illegal; but Yates, not content, appealed from the supreme court of the State of New York to the court of errors and appeals, and that court of last resort said the man ought to have been discharged under the habeas corpus proceedings, that he never ought to have been imprisoned, and discharged Yates from custody. Now, if there ever was a case in the history of judicial proceedings where there was an evidence of malice in repeated imprisonment it existed in that case.

Yates brought suit against Lanning to recover damages for false imprisonment, and Chancellor Kent—that man whose name adorns the pages of American judicial history; that man at whose feet you sat and I sat in instructions in American law—delivered an opinion which has been a standard ever since, in which he said it was absurd to say that a judge could be punished for ignorance of the law; that if Judge Lanning believed that Yates was guilty it was his duty to punish him seven times or seven times seven if he believed it honestly, and if he believed judicially, that the discharge on habeas corpus was illegal and that it was absolutely beyond the power of any man to sue a judge under those circumstances. He did say that for a corrupt abuse of judicial power the court of impeachment was the place, but that this showed no ground for any such course.

Mr. LITTLEFIELD. That the case did not show any corrupt conduct on the part of the judge.

Mr. MOON of Pennsylvania. Yes. Now, this triumvirate of legal conspirators—Belden, Davis, and Paquet—were sworn officers of that court. They were pledged to uphold its dignity and its honor. They were high priests in that temple of justice and with unhallowed hands they profaned its sacred altars, and I say that if Judge Swayne did not in sentencing them for contempt say that their conduct was an offense in the nostrils of justice he lost an opportunity of saying what he ought to have said. I say that their conduct absolutely justified it and nothing can convince me that the good people of Pensacola, Fla., do not look with disdain upon such chicanery and shyster practice as that. We are dealing with a coordinate organic department of this Government—the judiciary—the weakest division of the three great powers; a department that has no patronage to dispense; that neither carries the purse nor wears the sword; whose sole power for its protection is the summary power to punish for contempt. In every judicial district of this land, upon the bench with the judge, sits enthroned the dignity of the United States, and whosoever touches with the finger of contempt the least one of these judges touches us; and that it is our duty, as members of the legislative department of the country, to guard and protect with jealous care the dignity and honor of the judiciary, as it is to protect ourselves from contumely and contempt. [Prolonged applause.]

Mr. GILLETT of California. Mr. Speaker, I now yield thirty minutes to the gentleman from Indiana [Mr. CRUMPACKER].

Mr. CRUMPACKER. Mr. Speaker, the time is passed in this debate when it seems proper to go into a detailed discussion of the various articles presented by the special committee for adoption by the House in the impeachment of Judge Swayne. The various charges have been discussed in detail and at great length by members of the special committee and members of the Committee on the Judiciary, who formulated the charges and who are thoroughly familiar with the record. The views of the members of that committee, conflicting and antagonistic as they are, have been given to the House in elaborate detail. The gentleman from Pennsylvania [Mr. MOON] who just preceded me, made an exceptionally strong argument against the adoption of any of the articles of impeachment presented by the special committee. My mind has been running along in the same channel with his argument.

In conversation with Members of the House I have heard many say that the House had already committed itself to the policy of impeaching Judge Swayne and it only remained to formulate the charges. The gentleman from Pennsylvania [Mr. PALMER], who is in charge of the majority report of the committee, in his able speech said that it was within the power of the House to vote down all of the articles of impeachment and discontinue the proceeding altogether. He said the House might stultify itself and make itself a laughing stock before the country if it so desired. It occurs to me, Mr. Speaker, that each Member of this body must determine his action upon the standards of justice and policy he has in his own mind. Each one must determine his duty for himself. The House is familiar with the discussion that occurred at the time of the adoption of the resolution for impeachment before the holiday recess. There was practically but one side of the question presented to the House.

I believe every Member who spoke on that occasion had signed a report or a statement that appeared in the record declaring that the resolution for impeachment ought to be adopted. If

now, on further investigation, a member of this body who voted for the resolution originally should conclude that he made a mistake, that the charges presented against Judge Swayne are not of such a grave character as to justify this extraordinary proceeding, let me ask him whether he regards it his duty, in the face of his new-born conviction, to still vote to fix upon the name of an innocent judge the brand of infamy that will stand through all the generations to come in order that he may appear to be consistent. It occurs to me that no member of this body, if he sincerely believes that the charges are not worthy of the high consideration that gentlemen are attempting to give to them, can conscientiously support them regardless of what his attitude may have been upon the original resolution. In my judgment, the Member who votes for any article of impeachment against his conviction stultifies his conscience and his manhood.

The gentleman from Pennsylvania [Mr. MOON] discussed in a measure the general aspects of this case. What kind of a man and a judge is Judge Swayne? He has been characterized upon this floor as "utterly corrupt," as "utterly tyrannical," as "the most lawless man in the State of Florida," a man in whose career lingers bankruptcies, scandals, and suicides. Is he such a monster as he has been characterized? It is impossible. He went to the State of Florida about twenty years ago and took up his home there in good faith. In May, 1889, after having lived there about five years, he was appointed United States district judge for the district of Florida. He has continued in his office under that appointment ever since, and in 1897, after having served as judge for the district for eight years, members of the bar of that State, men who had practiced before him, men who knew all about him as a judge, and men who knew him personally, recommended him for the important and responsible position of justice of the Supreme Court of the United States to succeed the late Justice Field, who was expected shortly to retire.

In 1899 these same men, including all the members of the bar at Pensacola, lawyers and business men all over the State of Florida, recommended him for promotion to the United States circuit bench for the fifth judicial district. During the last ten years of his official service most of his time has been spent in holding court outside of his district. He has held court in Texas, Louisiana, and Alabama, and the record shows that 50 per cent more of his time was devoted to work outside of the State of Florida than was given to work in the State of Florida. He has held court at the suggestion and by the designation of the circuit judges of that circuit all over the Southern States, and yet, Mr. Speaker, not a single criticism of Judge Swayne, either as a citizen or judge, has come from Texas, Louisiana, Alabama, or any other place where he held court outside of the northern district of Florida. Is not that significant? If he were such a monster, if he were so thoroughly corrupt and absolutely tyrannical as he has been described upon the floor of this House, would there not have been some exhibition of his viciousness, some complaint from the States of Texas, Louisiana, and Alabama, where he devoted most of his time to his court duties during the last ten years of his official career?

During that time, Mr. Speaker, the circuit judges who sat with him, who saw the character of his work, who reviewed his decisions, and knew more about him as a judge than anyone else could know, selected him to go into those other States and administer justice. Is it possible that the circuit judges of that circuit would select and send out a judge so utterly unfit, so thoroughly corrupt, to administer the most important rights of the people into those other States? I say it is impossible to believe they would do such a thing. The record shows that this judge sat in thousands of cases involving large amounts of property and the most important questions, and yet after a most zealous and vigilant and thorough investigation of his record for a period of fifteen years not a word of criticism has been made in relation to a single decision, a single judgment he rendered, excepting two inconsequential, unimportant contempt cases.

Let me ask of this House if there is a district judge in the United States who has been as long on the bench and has done as much business as Judge Swayne against whom as much could not be discovered upon a much less thorough and zealous investigation than has been made in this case? In respect to these two contempt cases that have been discussed so exhaustively upon the floor of this House, the debate here itself is convincing evidence of the fact that Judge Swayne was not and could not have been influenced by any improper motives in his decision in either of them. The merits of those cases has been the subject of honest debate and honest difference of opinion here. The distinguished, eloquent, and dramatic gentleman from New York [Mr. COCKRAN] criticised Judge Swayne in relation to his conduct in the Belden and Davis case, while my friend from Maine [Mr. LITTLEFIELD], equally as honest, equally as able, and equally as eloquent, if not quite as dramatic, justified the action of the judge in that case from beginning to end, disclosing an honest difference of opinion between two eminent, able lawyers and statesmen in relation to the merits of the case. One claims that the decision of the judge was wrong and the other claims that if he had not decided as he did he would have been wrong.

Why, Mr. Speaker, I believe if it were submitted to this House fully one-half of the membership—aye, I believe that if not involved in this question of impeachment, nine-tenths of the House would justify the entire conduct of Judge Swayne in the disposition of the Belden and Davis contempt case. We are not here to impeach Judge Swayne because he may have made a mistake, if it were admitted that he did make one. This proceeding, Mr. Speaker, is not criminal; it is not penal. It is not instituted for the purpose of punishing a judge for any violation of law or any mistake he may have made in administering the law. It is a political proceeding brought for the sole purpose of determining whether this United States judge is longer fitted to occupy the responsible and honorable position he now fills—that and nothing more. I believe in the maintenance of a high standard for the judiciary of this country, but an ideal standard is not to be expected. We can have practical standards only. Judges make mistakes in relation to the law every day in the year, as the reports of the Supreme Court of the United States disclose. Cases are reversed almost every day that that court is in session and the inference is that the trial court made a mistake in every case that is reversed.

Mr. FOWLER. And in decisions of 5 to 4.

Mr. CRUMPACKER. And even, Mr. Speaker, decisions in the most important cases of that high tribunal are rendered by a bare majority of 1. Is the dissenting minority impeachable for being on the wrong side of the law? It does not follow that because a decision may have been reversed the judge who rendered it is guilty of misconduct.

This debate illustrates that honest minds may differ respecting the two decisions of Judge Swayne involved in this proceeding. One honest judge might have discharged the defendants in both cases, and another equally honest judge might have convicted them in both cases, as Judge Swayne did.

The question is, Does this record show that Judge Swayne was corrupt, that his official conduct was prompted by improper and unworthy motives? The gentleman from New York [Mr. COCKRAN] put the question to the House in this way: He said, "Here are certain transactions shown by the record that Members have said were in bad taste and possibly reprehensible in some degree. Now," he says, "the question is for the House to determine. If it votes against impeachment, it not only condones but approves conduct that may be reprehensible." According to his logic the only way one can disapprove the conduct of a civil officer is to vote to impeach him!

The Constitution of the United States provides that civil officers may be impeached for high crimes and misdemeanors. There may be irregularities in the conduct of a public officer that do not approach the dignity of high crimes and misdemeanors, and consequently would not authorize impeachment. Impeachment is an extraordinary proceeding, it has been resorted to only a few times in the history of this country, and the fact that it is so rarely invoked, Mr. Speaker, is convincing evidence that it is only invoked in cases where the misconduct is of such a grave nature as to require a resort to extraordinary proceedings.

There is no judge in America or anywhere else whose conduct is absolutely upright and correct in every particular and upon all occasions. The question is, Does Judge Swayne measure up to the ordinary standard of district judges throughout the country? That is the question for the House to determine. The charges, Mr. Speaker, are of a flimsy nature. The record presents to the House for consideration a mass of chaff, and when it is sifted, when the chaff is separated from the wheat, there is practically nothing left. The question of residence has been thoroughly discussed.

In my judgment there is no court in christendom that would not decide upon this record that Judge Swayne has made not only a technical but a substantial compliance with the residence requirement of the statute from the time he first went to Pensacola, Fla., to make his home, until the present time. There is no question about it in my mind. Of course, he was absent from the State of Florida a good portion of each year, but it must be borne in mind that during the court season of the year 50 per cent more of his time was occupied in holding court outside of that State than in it. He was necessarily absent then. The evidence showed that he was absent from his own

district only during the summer vacation, with one exception or two, when during the holiday season he went to his ancestral home in Delaware, except when he was ordered to be away in other parts of the country attending to his official duties by direction of his superior officers.

Mr. WM. ALDEN SMITH. Does not the record show that he actually attended court and held court there more frequently than judges of many other districts?

Mr. CRUMPACKER. I do not know. The work of judges in other districts is not gone into in the record.

Mr. LITTLEFIELD. It shows an annual average of holding court of one hundred and seventy-nine days in and out his district.

Mr. CRUMPACKER. That is assuming that he held court six days in the week?

Mr. LITTLEFIELD. Oh, no; the actual number of days on which he held court.

Mr. CRUMPACKER. And that does not include days during terms when there were no cases ready for trial, when the judge might be engaged in looking up law questions or in the preparing of opinions or in writing instructions, and some courts only hold sessions five days in the week regularly. That is the common custom out in the State of Indiana, particularly among State courts.

Then there was the time occupied in going to and returning from the place of holding court, and when all the facts are fairly considered it appears quite satisfactorily that Judge Swayne was engaged in his official work in the northern district of Florida and elsewhere under the direction of the circuit judges all of the time for the last ten years excepting during his proper summer vacation.

Mr. LITTLEFIELD. On an average of three months in a year.

Mr. CRUMPACKER. On an average of three months a year. Now, some reference has been made to the state of feeling against Judge Swayne in Florida. What is the reason for it? He was appointed judge in May, 1889, and shortly after his appointment a series of election prosecutions occurred. The grand jury impaneled during that fall returned a large number of indictments for election frauds. That action created a great deal of excitement throughout the State of Florida. The feeling was intense, and opposition to the confirmation of Judge Swayne's appointment was made before the Committee on the Judiciary in the United States Senate at the following session of Congress.

The question of his confirmation was held up by that committee for four months. A thorough investigation was had. Judge Swayne was charged with intense partisanship, with partiality, with improper conduct in impaneling the grand jury; and after a thorough investigation his conduct was fully vindicated, and he was confirmed. Questions growing out of the election cases were the subject of several very acrimonious personal debates on the floor of the Senate, which illustrated the intensity of the feeling existing on account of the election cases.

In the meantime, deputy marshals who attempted to serve the warrants and writs were assassinated, witnesses were shot and intimidated and kept away from the court, and, finally, in June or July, 1891, the court-house at Jacksonville, containing the indictments and the records of the cases, was burned by an incendiary, and by that means the prosecutions were disposed of forever.

The feeling was intense and persistent, and in 1893, after Mr. Cleveland became President, supported by a Democratic Congress, a new district was created in the State of Florida, taking away from Judge Swayne's court practically all of the business it had. There is no man who will take the pains to go back and study the history of this judgeship, involving the appointment and confirmation of Judge Swayne, the assassination of deputy marshals, the murder of witnesses, and the destruction of the court-house at Jacksonville, who will not conclude that the feeling against the judge was most bitter and vindictive. He had lived there only about five years when he was originally appointed. He was characterized as a "carpetbagger." I am not criticising anybody, but simply relating the history of this judgeship, with the view of finding an explanation of the feeling that is said to exist against Judge Swayne in Florida at this time.

After the new district was created and in the course of time the feeling growing out of the election cases largely subsided, and the judge was getting on fairly well with his court until the O'Neal contempt case occurred. That man, who was justly punished for a gross contempt of court, swore vengeance against Judge Swayne, and with his wealth and influence he had but little difficulty in fanning the old slumbering prejudice against the "carpetbag judge" into an active flame, and the result was the adoption of the resolutions on the part of the legislature of Florida during the winter of 1903 demanding Swayne's impeachment.

I believe, Mr. Speaker, that if it had not been for those election prosecutions, those unfortunate indictments against men charged with frauds against the ballot in 1889, there would have been no thought of instituting impeachment proceedings against Judge Swayne. This entire proceeding, this persecution, is the result of an attempt of officers of the law to punish election frauds in Florida. This is the only way to account for the feeling now existing against Judge Swayne in that State. His conduct as judge does not deserve it.

But I doubt if it exists in the degree that has been depicted by the gentleman from Florida and other Members on the floor of this House. No man has spoken a single word against the private character and standing of this judge. No man has questioned his integrity except in connection with the per diem and the private car transactions. The private car transaction occurred ten or eleven years ago, under a receiver, my recollection is, who was not appointed by Judge Swayne at all. I understand that the original receiver appointed by Judge Swayne was a Mr. Mason, and Judge Pardee came down and they consulted together, and Mr. Durkee was made receiver at the suggestion of Judge Pardee, succeeding Mr. Mason, a man of eminent standing and integrity. During the course of the receivership the private car was sent to bring Judge Swayne from Guyencourt, Del., to Pensacola. The record shows that without any suggestion on the part of Judge Swayne the receiver, upon his own motion, sent the private car to Guyencourt to bring him down to hold his court in the fall of 1893.

Possibly that was a transaction that may be entitled to some degree of reproach, that may be in some degree reprehensible, but I submit, Mr. Speaker, it was a transaction which, having occurred eleven or twelve years ago, does not now reach the importance of grave irregularity or a high misdemeanor such as to justify the House of Representatives in impeaching the judge. He did not pass upon the accounts of the receiver. The new district was created in 1894, and the chief seat of justice in the district of Florida prior to that time was at Jacksonville, possibly at St. Augustine. The receivership was being administered at Jacksonville, and in 1894, about a year after, or within a year from the time of the appointment of that receiver, the new law went into effect, Judge Swayne was sent over to Pensacola and Tallahassee, and his successor administered and closed up the receivership and passed upon the accounts of the receiver.

I do not know that that would make any difference in the principle involved in the question, but I do submit that it is too inconsequential to justify the grave and extraordinary proceeding of impeachment.

Then, during that same summer, Judge Swayne desired to take a trip to California for his health, and the receiver said to him, "Take the private car; it is not in use, we do not need it, it will not cost anything to operate it; there is a standing custom among all the railroads throughout the country to transport private cars without charge, and we will have to carry just as many private cars over our lines if you do not use this one as if you do," and Judge Swayne accepted his hospitality. Perhaps he ought not to have done it. I do not justify the conduct of Judge Swayne in using the private car, but at the same time I take the position that it is not a high misdemeanor. It may be a misfeasance, it may be one of those common irregularities that many well-disposed men, upright, just, and able judges, would commit. It does not demonstrate such a degree of corruption and unfitness as would justify the Senate of the United States, as an impeaching court, in convicting Judge Swayne and removing him from office.

Mr. PALMER. Will the gentleman allow an interrogation?

Mr. CRUMPACKER. I will.

Mr. PALMER. What do you think about the proposition that he had a right to use that car because the railroad was in the hands of a receiver?

Mr. CRUMPACKER. I think about that proposition as I do about a good many other things that are in this record; it is one of the things that incidentally came about, and Judge Swayne afterwards said he did not take any such position at all. [Applause.]

Mr. PALMER. I beg your pardon.

Mr. CRUMPACKER. Judge Swayne said he did not take the position and did not want to be understood as claiming that he had a right to use property that was within his custody through a receivership appointed by him, and the gentleman, I think, will remember that——

Mr. PALMER. I think I remember this: I think I remember distinctly what occurred and I think I remember distinctly what is in the record. When Judge Swayne made his written state-

ment, twenty-three pages of typewriting, occupying thirteen pages of this record, he distinctly put his use of the private car on the proposition that he had a right to use it. That was a proposition so astounding that I cross-examined him afterwards on that subject.

Mr. CRUMPACKER. Of course now——

Mr. PALMER. Wait a minute. Then he distinctly said he had a right to use it and understood that he had the right to use it, and he answered that way twice or three times. If he did not mean it, of course——

Mr. CRUMPACKER. When he said he had a right to use it, he doubtless thought he was doing no wrong, when the receiver suggested that he take it and use it.

Mr. PALMER. I give Judge Swayne the credit for being a man having common sense and a man able to understand a plain question.

Mr. CRUMPACKER. I do not believe that when Judge Swayne accepted the hospitality of the receiver, or accepted the suggestion of the receiver to ride in the private car, that he thought for a moment he was doing a wrong thing. Whatever may be thought about his conduct now, it did not occur to him that it was wrong. If it was not wrong, he thought it was a right and proper thing to do, and that is the interpretation of Judge Swayne's testimony in regard to his alleged right to use property that was in the custody of a receiver appointed by him.

Now, these contempt cases, as I said just a moment ago, have been debated sufficiently here upon the floor to disclose the fact that there is room for honest difference of opinion in relation to the judgment of the court in each of them. Honest, well-meaning, conscientious men occupy both sides of the question. Therefore there is absolutely no justification in attempting to impeach Judge Swayne because he did not interpret the law the same as some of us might have interpreted it under the same circumstances.

Mr. THAYER. Mr. Speaker, will the gentleman allow me a suggestion?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. CRUMPACKER. Yes.

Mr. THAYER. I would like to ask what the gentleman thinks were the acts of Belden and Davis for which they were committed for contempt?

Mr. CRUMPACKER. The acts of Belden and Davis were the acts of men who entered into a conspiracy——

Mr. THAYER. The gentleman, I take it——

Mr. CRUMPACKER. Let me answer the question. They were the acts of men who entered into a contemptible conspiracy, in the nighttime, to bring a suit, not in good faith at all, but for the purpose of bringing the court into contempt and ridicule and compelling the judge to do a thing that under the law he was not required to do and that he ought not to have done.

They were the acts of common shysters, and if Judge Swayne had had the power to suspend these men from practice during the balance of their lives he would not have overstepped the bounds of propriety if he had done so. Their act was a deliberate act; it was not a thing done in the heat of passion, through excess of zeal, but it was a deliberate conspiracy entered into by these lawyers of large experience to bring that court into contempt and ridicule, and compel it to do a thing that it could not be compelled to do otherwise.

Mr. THAYER. Does the gentleman claim that nonsuit in the suit in his court was one of the acts for which they should be punished?

Mr. CRUMPACKER. Does the gentleman mean the asking for the dismissal of the case?

Mr. THAYER. The fact that they did become nonsuit on the Monday following Saturday?

Mr. CRUMPACKER. That was after the crime had been committed, and they had to be there to answer.

Mr. THAYER. They had a right to become nonsuit.

Mr. CRUMPACKER. They had no intention of dismissing the suit at the time they entered into this conspiracy on Saturday. In their answer, in their attempt to purge themselves, they made no reference to anything of that kind. They never claimed it at all.

Mr. THAYER. I do not know as I quite apprehend the gentleman's position. I understand the gentleman from Indiana to say that it is the conspiracy for which they were committed for contempt. Does the gentleman mean that a part of that conspiracy was the discontinuance of the suit, which they had a perfect right to do any minute before judgment?

Mr. CRUMPACKER. I do not claim that; they had no idea of discontinuing the suit before Judge Swayne when they brought that suit in the State court on Saturday night. It was to compel Judge Swayne to recuse himself and retire from the bench and give them a continuance until Thursday. They had no idea when they brought the suit of discontinuing it on the next Monday.

Mr. THAYER. From what part of the record here does the gentleman say that on Saturday night they did not conclude that on the following Monday they would become nonsuit?

Mr. CRUMPACKER. Because when they went into court to defend their conduct they never claimed any such thing.

Mr. THAYER. They were not obliged to.

Mr. CRUMPACKER. If it had been the fact, it would have been a part of their justification. It is all a part of one transaction. Now, if the gentleman will go to the record and read the record——

Mr. THAYER. I have read it as thoroughly as the gentleman from Indiana.

Mr. CRUMPACKER. I think if his mind is fair, as it ought to be—and I have no reason to believe otherwise—he will reach the conclusion that Judge Swayne was justified in doing everything he did in that case except adding imprisonment to the fine; and it will be found in the decisions of the court of appeals that other judges have made the same mistake, and yet nobody ever proposed to impeach them for the mistake.

Mr. THAYER. Then the gentleman comes to the conclusion that they were committed for contempt for bringing the suit against the judge, and that alone?

Mr. CRUMPACKER. No, sir. I claim they were committed for contempt for bringing a bad-faith suit in the State court for the purpose of bringing the Federal court into contempt and ridicule and coercing the judge to do a thing that they could not legally procure him to do and had no right to have him do.

Mr. THAYER. Now you characterize his act.

Mr. CRUMPACKER. I decline to yield further. I have answered the gentleman as fully as I can. The standard of the judiciary in this country is as high as in any other country in Christian civilization.

It is not perfect, but I want to say that if the judges of the Federal court are to be impeached because they do not construe the statutes of the United States in the same manner that we would the necessary independence of the judiciary will have departed from our civilization. In English history, notwithstanding the Magna Charta, the petition of rights, and the acts of settlement, there was no liberty of the person until the independence of the judiciary became a fixed, a solemn, and a permanent fact. Courts in this country must preserve and protect their own dignity. They must have a sufficient degree of latitude to do that or they will lose the respect of the citizens everywhere.

I repeat, Mr. Speaker, that Judge Swayne has not been guilty of more mistakes or irregularities, considering the long period of service that he has given to the country, considering the large amount of work he has done, than could be discovered against the ordinary district judge, and I shall vote against every single article of impeachment proposed by the committee. [Applause.]

[Mr. LAMAR of Florida addressed the House. See Appendix.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed bills of the following titles; in which the concurrence of the House of Representatives was requested:

S. 2207. An act to fix the compensation of criers and bailiffs in the United States courts;

S. 130. An act to establish a fish-cultural station in the State of Rhode Island;

S. 4069. An act to provide for the performance, temporarily, of the duties of appraisers and assistant appraisers of merchandise; and

S. 3152. An act to reimburse the Becker Brewing and Malting Company, of Ogden, Utah, for loss resulting from robbery of the United States mails.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the bill (S. 5739) granting an increase of pension to Adolphe Bessie.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R 16720. An act permitting the building of a railroad bridge across the Red River of the North from a point on section 6, township 154 north, range 50 west, Marshall County, Minn., to a point on section 36, township 155 north, range 51 west, Walsh County, N. Dak.

The message also announced that the Senate had passed the

following resolution; in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 93.

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in cloth, at the Government Printing Office, 1,000 copies of an index of Congressional documents relating to foreign affairs, prepared under the direction of Mr. John L. Cadwalader, Assistant Secretary of State, from July, 1874, to March, 1877, and offered to the Department of State to be placed at the disposal of the Government for the purpose of publication, of which 300 shall be for the use of the Senate, 600 for the use of the House of Representatives, and 100 for the Department of State.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 2151. An act granting an increase of pension to Samuel H. Hunt;

H. R. 15688. An act granting an increase of pension to Augustus H. Haines;

H. R. 15071. An act granting an increase of pension to Matilda L. Curkendall;

H. R. 15680. An act granting an increase of pension to Isaac Hanson;

H. R. 14879. An act granting an increase of pension to Benjamin Dillingham;

H. R. 808. An act granting an increase of pension to George Deland;

H. R. 11148. An act granting an increase of pension to George W. Stanfield;

H. R. 14875. An act granting an increase of pension to Seeley Earnest;

H. R. 2558. An act granting an increase of pension to John Cummings;

H. R. 9115. An act granting an increase of pension to Merritt Mead;

H. R. 15785. An act granting an increase of pension to Charles E. Young;

H. R. 14601. An act granting an increase of pension to William Scheall;

H. R. 8996. An act granting an increase of pension to Diah Lovejoy;

H. R. 6857. An act granting an increase of pension to Lorenzo D. Jameson;

H. R. 6543. An act granting an increase of pension to Robert Liggatt;

H. R. 14951. An act granting an increase of pension to Benjamin F. Watts;

H. R. 8166. An act granting an increase of pension to Martha A. Johnson;

H. R. 5692. An act granting an increase of pension to John Shanley;

H. R. 12576. An act granting an increase of pension to William M. Kitts;

H. R. 13501. An act granting an increase of pension to James L. Townsend;

H. R. 11788. An act granting an increase of pension to Henry L. Kyler;

H. R. 14774. An act granting an increase of pension to Albert S. Graham;

H. R. 5461. An act granting an increase of pension to Preston D. Roady;

H. R. 15634. An act granting a pension to Harriet A. Orr;

H. R. 14576. An act granting an increase of pension to Evelyn M. Dunn;

H. R. 9771. An act granting an increase of pension to Mary E. Weaver;

H. R. 4948. An act granting a pension to Wilson H. Davis;

H. R. 15207. An act granting an increase of pension to Amos Jones;

H. R. 6948. An act granting an increase of pension to Joshua Parsons;

H. R. 10945. An act granting a pension to Lola Qualls;

H. R. 11661. An act granting an increase of pension to William H. McClurg;

H. R. 11178. An act for the relief of Miss Lelia G. Cayce;

H. R. 5436. An act granting a pension to Hiram Baird;

H. R. 3287. An act granting an increase of pension to Orin Plaisted;

H. R. 14855. An act granting an increase of pension to Henry C. Thayer;

H. R. 12577. An act granting an increase of pension to James Graves;

H. R. 13064. An act granting an increase of pension to John K. Tyler;

H. R. 5245. An act granting an increase of pension to William A. Helt;

H. R. 6832. An act granting an increase of pension to Nathaniel Cayes;

H. R. 12859. An act granting an increase of pension to James Donnelly;

H. R. 12397. An act granting an increase of pension to Alfred Chill;

H. R. 11984. An act granting an increase of pension to Edward C. Jones;

H. R. 6961. An act granting an increase of pension to Thomas E. Rice;

H. R. 11451. An act granting an increase of pension to Alexander Morrison;

H. R. 6129. An act granting an increase of pension to Edwin M. Raymond;

H. R. 9798. An act granting an increase of pension to Isaac W. Sherman;

H. R. 12052. An act granting a pension to Walter P. Mitchell;

H. R. 10272. An act granting an increase of pension to Lorenzo Streeter;

H. R. 15269. An act granting a pension to Anna C. Owen;

H. R. 15791. An act granting a pension to Mary Suppes;

H. R. 14184. An act granting an increase of pension to James Ginnane;

H. R. 5089. An act granting an increase of pension to Charles W. McKenney;

H. R. 2353. An act granting an increase of pension to Sophia C. Hilleary;

H. R. 15779. An act granting an increase of pension to Lucinda M. Reeves;

H. R. 7367. An act granting an increase of pension to John M. Barron;

H. R. 1099. An act granting an increase of pension to Lewis O. Marshall;

H. R. 10686. An act granting an increase of pension to Michael Kurtz;

H. R. 10554. An act granting an increase of pension to John McGregor;

H. R. 912. An act granting an increase of pension to John F. Dorsey;

H. R. 3359. An act granting an increase of pension to Cyrus E. Salada;

H. R. 5037. An act granting an increase of pension to Richard H. Stillwell;

H. R. 15743. An act granting an increase of pension to Desire Leglise;

H. R. 4112. An act granting an increase of pension to Elizabeth Wynne;

H. R. 11402. An act granting an increase of pension to Agnes B. Hesler;

H. R. 12058. An act granting an increase of pension to John W. Dickey;

H. R. 1907. An act granting an increase of pension to Wyman J. Crow;

H. R. 11235. An act granting a pension to Clarissa E. McCormick;

H. R. 4655. An act granting an increase of pension to Henry Jeffers;

H. R. 7241. An act granting an increase of pension to Philip H. Strunk.

H. R. 15473. An act granting an increase of pension to James W. Capron;

H. R. 10969. An act granting an increase of pension to Joseph H. Shay;

H. R. 15387. An act granting an increase of pension to William Hall;

H. R. 15744. An act granting an increase of pension to Edward L. Russell;

H. R. 6506. An act granting an increase of pension to Edward M. Rhoades;

H. R. 14150. An act granting an increase of pension to John J. Carberry;

H. R. 15144. An act granting an increase of pension to William J. Reynolds;

H. R. 15404. An act granting an increase of pension to John A. Hayward;

H. R. 3712. An act granting a pension to Frederick W. Tappmeyer;

H. R. 4211. An act granting an increase of pension to Elijah Roberts;

H. R. 6640. An act granting an increase of pension to John A. Courtney;

H. R. 5341. An act granting a pension to Jennie Petteys;

H. R. 7279. An act for an additional circuit judge in the first judicial circuit;

H. R. 16160. An act granting to Farwell, Ozmun, Kirk & Co. license to make excavations and place footings in the soil of certain land belonging to the United States at St. Paul, Minn.;

H. R. 16582. An act to authorize the Union Trust and Storage Company to change its corporate name;

H. R. 11584. An act for the protection of wild animals and birds in the Wichita Forest Reserve;

H. R. 1679. An act providing for the extension of the national cemetery, on Williamsburg turnpike, near the city of Richmond, Va.; and

H. R. 16284. An act to transfer Fayette County from western to southern judicial district of Texas.

SENATE BILLS AND RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 3152. An act to reimburse the Becker Brewing and Malting Company, of Ogden, Utah, for loss resulting from robbery of the United States mails—to the Committee on Claims.

S. 4069. An act to provide for the performance of the duties of appraisers and assistant appraisers of merchandise—to the Committee on Ways and Means.

S. 130. An act to establish a fish-cultural station in the State of Rhode Island—to the Committee on the Merchant Marine and Fisheries.

S. 2207. An act to fix the compensation of criers and bailiffs in the United States courts—to the Committee on the Judiciary.

Senate concurrent resolution 93:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound in cloth, at the Government Printing Office, 1,000 copies of an Index of Congressional Documents relating to Foreign Affairs, prepared under the direction of Mr. John L. Cadwalader, Assistant Secretary of State from July, 1874, to March, 1877, and offered to the Department of State to be placed at the disposal of the Government for the purpose of publication, of which 300 shall be for the use of the Senate, 600 for the use of the House of Representatives, and 100 for the Department of State—

to the Committee on Printing.

ENROLLED BILLS.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 15320. An act to amend an act to regulate the practice of medicine and surgery, to license physicians and surgeons, and to punish persons violating the provisions thereof in the District of Columbia, approved June 3, 1896.

POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET, from the Committee on Appropriations, reported the bill (H. R. 17865) making appropriations for the services of the Post-Office Department for the fiscal year ending June 30, 1906, and for other purposes; which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report, ordered to be printed.

Mr. WILLIAMS of Mississippi and Mr. MOON of Tennessee reserved all points of order.

Mr. PALMER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 27 minutes p. m.) the House adjourned to meet to-morrow at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the Acting Secretary of the Treasury, transmitting a copy of a communication from the Postmaster-General, submitting an estimate of deficiency appropriation for the Post-Office Department—to the Committee on Appropriations, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a communication submitting recommendation as to the claim of James W. Schaumburg—to the Committee on War Claims, and ordered to be printed.

A letter from the Acting Secretary of the Treasury, transmitting a copy of a communication from the Director of the Mint, submitting recommendations as to use of a portion of the appropriation for parting and refining bullion—to the Committee on Appropriations, and ordered to be printed.

A letter from the Postmaster-General, transmitting a report as to the application of the appropriations for clerk hire at third-class offices; also as to the regulations governing the allotment of the appropriations for unusual business—to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Eleanor McWilliams, administratrix of estate of Henry McWilliams, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Matilda J. Smith, widow of Melvin J. Smith, against The United States—to the Committee on War Claims, and ordered to be printed.

A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Warham Easley against The United States—to the Committee on War Claims, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. MARTIN, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 5763) granting certain property to the county of Gloucester, N. J., reported the same without amendment, accompanied by a report (No. 3631); which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13188) granting an increase of pension to Charles H. Donihue, reported the same with amendment, accompanied by a report (No. 3590); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4636) granting an increase of pension to Martin J. Severance, reported the same with amendment, accompanied by a report (No. 3591); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 3908) granting an increase of pension to Jacob Troutman, reported the same with amendment, accompanied by a report (No. 3592); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 4390) granting an increase of pension to Francis W. Seeley, reported the same with amendment, accompanied by a report (No. 3593); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 5331) granting a pension to Jesse Bacus, of Unionville, Mo., reported the same with amendment, accompanied by a report (No. 3594); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9271) granting an increase of pension to William Dyas, reported the same without amendment, accompanied by a report (No. 3595); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 11399) granting an increase of pension to James Sleeth, reported the same with amendment, accompanied by a report (No. 3596); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12158) granting an increase of pension to L. L. Smith, reported the same with amendment, accompanied by a report (No. 3597); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 11303) granting an increase of pension to Robert Balsking, reported the same without amendment, accompanied by a report (No. 3598); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 10081) granting an increase of pension to William A. Russell, reported the same with amendment, accompanied by a report (No. 3599); which said bill and report were referred to the Private Calendar.

Mr. HOLLIDAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12157) granting an increase of pension to Asher D. Bice, reported the same without amendment, accompanied by a report (No. 3600); which said bill and report were referred to the Private Calendar.

Mr. SULLOWAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15655) granting a pension to Mattie M. Bond, reported the same with amendment, accompanied by a report (No. 3601); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16701) granting an increase of pension to Emanuel F. Brown, reported the same with amendment, accompanied by a report (No. 3602); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15679) granting an increase of pension to James G. Butler, reported the same with amendment, accompanied by a report (No. 3603); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12479) granting an increase of pension to Lucretia Cartmell, reported the same with amendment, accompanied by a report (No. 3604); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9335) granting an increase of pension to Joseph N. Croak, alias Joseph N. Croke, reported the same with amendment, accompanied by a report (No. 3605); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15529) granting an increase of pension to James M. Elkinton, reported the same with amendment, accompanied by a report (No. 3606); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14481) granting an increase of pension to Albert H. Estes, reported the same with amendment, accompanied by a report (No. 3607); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15390) granting an increase of pension to Augustus C. Foster, reported the same with amendment, accompanied by a report (No. 3608); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13305) granting an increase of pension to Amos L. Griffith, reported the same with amendment, accompanied by a report (No. 3609); which said bill and report were referred to the Private Calendar.

Mr. SNOOK, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15210) granting an increase of pension to Isaac N. Hawkins, reported the same with amendment, accompanied by a report (No. 3610); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 14125) granting an increase of pension to Joel Hudson, reported the same without amendment, accompanied by a report (No. 3611); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 15968) granting an increase of pension to James Luther Hodges, reported the same with amendment, accompanied by a report (No. 3612); which said bill and report were referred to the Private Calendar.

Mr. GIBSON, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 2927) granting an increase of pension to James C. Hall, reported the same with amendment, accompanied by a report (No. 3613); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16232) granting an increase of pension to Charles D. Jenkins, reported the same with amendment, accompanied by a report (No. 3614); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15874) granting an increase of pension to John Kingdon, reported the same with amendment, accompanied by a report (No. 3615); which said bill and report were referred to the Private Calendar.

Mr. HUNTER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9580) granting an increase of pension to John Knight, reported the same with amendment, accompanied by a report (No. 3616); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16046) granting an increase of pension to Frederick Lahrman, reported the same with amendment, accompanied by a report (No. 3617); which said bill and report were referred to the Private Calendar.

Mr. MIERS of Indiana, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16310) granting an increase of pension to Hugh McKenzie, reported the same with amendment, accompanied by a report (No. 3618); which said bill and report were referred to the Private Calendar.

Mr. SNOOK, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16457) granting an increase of pension to Herbert S. Nelson, reported the same with amendment, accompanied by a report (No. 3619); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 15718) granting an increase of pension to James Parmele, reported the same without amendment, accompanied by a report (No. 3620); which said bill and report were referred to the Private Calendar.

Mr. DEEMER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 17300) granting a pension to Charles H. Penoyer, reported the same with amendment, accompanied by a report (No. 3621); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 1263) granting an increase of pension to David Phillips, reported the same with amendment, accompanied by a report (No. 3622); which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House (H. R. 16614) granting a pension to Jacob Repsher, reported the same with amendment, accompanied by a report (No. 3623); which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 13654) granting an increase of pension to Thomas H. Soward, reported the same with amendment, accompanied by a report (No. 3624); which said bill and report were referred to the Private Calendar.

Mr. SNOOK, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 9517) granting an increase of pension to Joseph Starr, reported the same with amendment, accompanied by a report (No. 3625); which said bill and report were referred to the Private Calendar.

Mr. CALDERHEAD, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 5887) granting an increase of pension to William H. Swinney, reported the same with amendment, accompanied by a report (No. 3626); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16312) granting an increase of pension to Alpheus C. Townsend, reported the same with amendment, accompanied by a report (No. 3627); which said bill and report were referred to the Private Calendar.

Mr. LINDSAY, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 12558) granting an increase of pension to George Van Horn, reported the same with amendment, accompanied by a report (No. 3628); which said bill and report were referred to the Private Calendar.

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred the bill of the House (H. R. 16370) granting an increase of pension to Henry H. Wright, reported the same with amendment, accompanied by a report (No. 3629); which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of bills of the following titles; which were thereupon referred as follows:

A bill (H. R. 17136) granting a pension to A. N. Stamm—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 16732) granting a pension to Andrew N. Stamm—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 1011) for the relief of J. B. Chandler and D. B. Cox—Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 11858) granting an increase of pension to Henry Arey—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BABCOCK: A bill (H. R. 17860) to authorize the Commissioners of the District of Columbia to regulate the business of employment agents and employment agencies—to the Committee on the District of Columbia.

By Mr. KINKAID: A bill (H. R. 17861) to grant to Charles H. Cornell the right to abut a dam across the Niobrara River, on the Fort Niobrara Military Reservation, Nebr., and to construct and operate a trolley or electric railway line and telegraph and telephone lines across said reservation—to the Committee on Military Affairs.

By Mr. BASSETT: A bill (H. R. 17862) relating to making oath in cases of affirmation and affidavits before United States commissioners, and so forth—to the Committee on the Judiciary.

By Mr. HAMILTON: A bill (H. R. 17863) to further prescribe the duties of the secretary of the district of Alaska, and for other purposes—to the Committee on the Territories.

By Mr. KINKAID: A bill (H. R. 17864) to restore homestead rights to certain persons who made entries within a certain area in Nebraska between the 28th day of April and the 28th day of June, 1904, upon conditions—to the Committee on the Public Lands.

By Mr. OVERSTREET, from the Committee on the Post-Office and Post-Roads: A bill (H. R. 17865) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1906, and for other purposes—to the Union Calendar.

By Mr. WILLIAMS of Mississippi: A bill (H. R. 17866) fixing a date for the assembling of the Congress of the United States—to the Committee on the Judiciary.

By Mr. SHACKLEFORD: A bill (H. R. 17867) providing that the Interstate Commerce Commission shall declare and publish a uniform classification of freight—to the Committee on Interstate and Foreign Commerce.

By Mr. GOULDEN: A bill (H. R. 17868) to amend the civil-service act known as "An act to regulate and improve the civil service of the United States"—to the Committee on Reform in the Civil Service.

By Mr. RANSDELL of Louisiana: A bill (H. R. 17869) relating to the Monroe and Lake Providence Railroad Company—to the Committee on Interstate and Foreign Commerce.

By Mr. KINKAID: A joint resolution (H. J. Res. 197) to award to James H. Cook, of Agate, Nebr., a bronze medal for valiant services in the Geronimo campaign—to the Committee on Military Affairs.

By Mr. SHERMAN: A joint resolution (H. J. Res. 198) providing for the appointment of a committee on the inauguration of the President of the United States—to the Committee on the District of Columbia.

By Mr. STEPHENS of Texas: A resolution (H. Res. 447) directing the Secretary of the Interior to transmit to the House a copy of a report made by Arthur D. Kidder—to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BASSETT: A bill (H. R. 17870) granting an increase of pension to Sylvester N. Stewart—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17871) granting a pension to Margaret O'Neill—to the Committee on Invalid Pensions.

By Mr. BEALL of Texas: A bill (H. R. 17872) granting an increase of pension to John J. Hughes—to the Committee on Pensions.

Also, a bill (H. R. 17873) granting an increase of pension to James B. Barry—to the Committee on Pensions.

Also, a bill (H. R. 17874) granting an increase of pension to Martin Ellison—to the Committee on Pensions.

By Mr. BRANDEGEE: A bill (H. R. 17875) granting an increase of pension to Franklin C. Pierce—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17876) granting an increase of pension to Moses H. Sawyer—to the Committee on Invalid Pensions.

By Mr. CAPRON (by request): A bill (H. R. 17877) granting a pension to Joseph E. Green—to the Committee on Pensions.

By Mr. COCKRAN of New York: A bill (H. R. 17878) granting a pension to Agnes Cooper—to the Committee on Pensions.

Also, a bill (H. R. 17879) granting a pension to Julia Davis—to the Committee on Invalid Pensions.

By Mr. COWHERD: A bill (H. R. 17880) for the relief of Wilhelmina Sharp—to the Committee on War Claims.

By Mr. DAYTON: A bill (H. R. 17881) for the relief of the trustees of the Methodist Episcopal Church at Keyser, formerly New Creek, W. Va.—to the Committee on War Claims.

By Mr. FINLEY: A bill (H. R. 17882) for the relief of Howell H. Shute, of Lancaster County, S. C.—to the Committee on War Claims.

By Mr. FOSS: A bill (H. R. 17883) granting an increase of pension to Mary Virginia Taylor—to the Committee on Invalid Pensions.

By Mr. GAINES of Tennessee: A bill (H. R. 17884) for the relief of the estate of Benjamin F. Myers, deceased, late of Davidson County, Tenn.—to the Committee on War Claims.

Also, a bill (H. R. 17885) for the relief of the heirs of Hugh McGavock, deceased, late of Davidson County, Tenn.—to the Committee on War Claims.

By Mr. GIBSON: A bill (H. R. 17886) granting a pension to Martha M. Helton—to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 17887) to complete war record of B. R. Trull—to the Committee on Military Affairs.

Also, a bill (H. R. 17888) to pay B. R. Trull for money advanced and services rendered United States—to the Committee on War Claims.

By Mr. HENRY of Connecticut: A bill (H. R. 17889) granting an increase of pension to John G. McFarlane—to the Committee on Invalid Pensions.

By Mr. HUNTER: A bill (H. R. 17890) granting a pension to S. M. Carson—to the Committee on Pensions.

Also, a bill (H. R. 17891) granting a pension to Robert M. Alexander—to the Committee on Invalid Pensions.

By Mr. KNAPP: A bill (H. R. 17892) granting an increase of pension to John M. Moore—to the Committee on Invalid Pensions.

By Mr. LITTAUER: A bill (H. R. 17893) granting a pension to Helen M. Taylor—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17894) granting a pension to Bishop L. Aldrich—to the Committee on Invalid Pensions.

By Mr. LORIMER: A bill (H. R. 17895) granting an increase of pension to John Hopper—to the Committee on Pensions.

By Mr. MACON: A bill (H. R. 17896) granting a pension to T. P. Allmond—to the Committee on Invalid Pensions.

By Mr. MOON of Pennsylvania: A bill (H. R. 17897) for the relief of Charles H. Stockley—to the Committee on Military Affairs.

By Mr. McGUIRE: A bill (H. R. 17898) for the relief of W. E. Gorton—to the Committee on the Public Lands.

By Mr. PEARRE: A bill (H. R. 17899) granting an increase of pension to Loulie A. Sterick—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17900) granting an increase of pension to Edward M. Mobley—to the Committee on Invalid Pensions.

By Mr. PINCKNEY: A bill (H. R. 17901) granting an increase of pension to Elenor L. Deadrick—to the Committee on Pensions.

By Mr. PUJO: A bill (H. R. 17902) for the relief of the estate of Joseph Gradengo, deceased, late of St. Landry Parish, La.—to the Committee on War Claims.

Also, a bill (H. R. 17903) for the relief of the estate of Jean Baptiste Rabot, deceased, late of St. Landry Parish, La.—to the Committee on War Claims.

Also, a bill (H. R. 17904) for the relief of the estate of François Meuillon, deceased, late of St. Landry Parish, La.—to the Committee on War Claims.

Also, a bill (H. R. 17905) for the relief of the heirs of Jabez Tanner, deceased, and estates of Z. York and Elias J. Hoover,

deceased, late of Rapides Parish, La.—to the Committee on War Claims.

By Mr. RICHARDSON of Tennessee: A bill (H. R. 17906) for the relief of the estate of James F. Phillips, deceased—to the Committee on War Claims.

Also, a bill (H. R. 17907) for the relief of the heirs of William Pepper, deceased—to the Committee on War Claims.

By Mr. RODENBERG: A bill (H. R. 17908) granting a pension to Elisha T. Ellis—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17909) granting an increase of pension to Lytle McCracken—to the Committee on Invalid Pensions.

By Mr. SIMS: A bill (H. R. 17910) for the relief of the estate of John S. Burrows, deceased—to the Committee on War Claims.

Also, a bill (H. R. 17911) for the relief of the estate of Hudson Muse, deceased—to the Committee on War Claims.

Also, a bill (H. R. 17912) for the relief of the estate of Walter W. Melton, deceased—to the Committee on War Claims.

Also, a bill (H. R. 17913) for the relief of the estate of John Sanford, deceased—to the Committee on War Claims.

By Mr. STAFFORD: A bill (H. R. 17914) granting a pension to Maria W. Shaul—to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 17915) granting an increase of pension to John J. Cox—to the Committee on Pensions.

Also, a bill (H. R. 17916) granting an increase of pension to Lafayette D. Stone—to the Committee on Pensions.

By Mr. SMITH of Illinois: A bill (H. R. 17917) granting an increase of pension to Lewis Hammack—to the Committee on Pensions.

By Mr. SMITH of New York: A bill (H. R. 17918) granting a pension to Hiram H. Terwilliger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17919) granting a pension to William Bronson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17920) granting a pension to Fannie A. McKee—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17921) granting a pension to Hannah M. Hayes—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17922) granting a pension to Ann E. Snyder—to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 17923) granting an increase of pension to Annie Crawford—to the Committee on Invalid Pensions.

By Mr. TRIMBLE: A bill (H. R. 17924) granting a pension to Samuel McMannus—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17925) granting a pension to John M. Lawrence—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17926) granting a pension to William R. Robinson—to the Committee on Invalid Pensions.

By Mr. WEISSE: A bill (H. R. 17927) granting an increase of pension to C. William Rehfeld—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17928) granting an increase of pension to James MacDonald—to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 17929) granting a pension to William W. Garvin—to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 17930) granting a pension to Eliza B. Wilson—to the Committee on Invalid Pensions.

By Mr. VAN VOORHIS: A bill (H. R. 17931) granting an increase of pension to Perry R. Nye—to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ADAMS: Petition of the Lutheran Ministers' Association of Philadelphia, asking investigation into barbarities in the Kongo Free State—to the Committee on Foreign Affairs.

By Mr. ADAMSON: Petition of W. A. Woodall, favoring bill H. R. 7041—to the Committee on the Judiciary.

Also, petition of Atlanta Division, Order of Railway Conductors, favoring bill H. R. 7041—to the Committee on the Judiciary.

By Mr. BEALL of Texas: Paper to accompany bill for relief of James B. Barry, of Walnut Springs, Tex.—to the Committee on Pensions.

Also, paper to accompany bill for relief of J. J. Hughes—to the Committee on Pensions.

Also, papers to accompany bill for relief of Martin Elleson, of Walnut Springs, Tex.—to the Committee on Invalid Pensions.

By Mr. BRANDEGEE: Petition of the Derby and Shilton (Conn.) Board of Trade, favoring removal of duty on alcohol for manufactures—to the Committee on Ways and Means.

Also, petition of the Woman's Christian Temperance Union of Mystic, Conn., against Senate resolution 5703—to the Committee on Military Affairs.

By Mr. BURLEIGH: Papers to accompany bill for relief of Edward R. Penny—to the Committee on War Claims.

Also, papers to accompany bill for relief of Allen L. Penney—to the Committee on War Claims.

By Mr. CAMPBELL: Papers to accompany bill for relief of Henry Gillham—to the Committee on Pensions.

By Mr. CAPRON: Papers to accompany bill for relief of Joseph E. Green—to the Committee on Pensions.

By Mr. FRENCH: Petition of Luke Williams et al., of Indian tribes and also various white people, favoring the Hamilton bill—to the Committee on Indian Affairs.

Also, petition of the Rigley Hardware, Lumber, and Manufacturing Company et al., favoring the Cooper-Quarles bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Farmers' Mill and Lumber Company et al., of Troy, Idaho, supporting the Cooper-Quarles bill—to the Committee on Interstate and Foreign Commerce.

By Mr. FULLER: Petition of the Heath & Milligan Manufacturing Company, of Chicago, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of Hibbard, Spencer, Bartlett & Co., favoring the Russell bill (H. R. 15600)—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Andrews Wire and Iron Works, of Rockford, Ill., favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Merchants' Association of New York, favoring abolition or material reduction of duties on products from Philippine Islands—to the Committee on Ways and Means.

Also, petition of the Calaveras Big Tree Committee, favoring the Calaveras big-tree bill—to the Committee on Agriculture.

By Mr. GAINES of Tennessee: Papers to accompany bill for relief of heirs of Hugh W. McGavock, of Davidson County, Tenn.—to the Committee on War Claims.

Also, papers to accompany bill for relief of Benjamin F. Myers, of Davidson County, Tenn.—to the Committee on War Claims.

Also, petition of heirs of Charles W. Moorman, deceased, asking reference of their claim to Court of Claims under the Bowman Act—to the Committee on War Claims.

Also, petition of W. W. Randolph, administrator of Mrs. I. H. Randolph, asking reference of claims to Court of Claims under the Bowman Act—to the Committee on War Claims.

By Mr. GROSVENOR: Petition of the Farmers' Institute of Pleasantville, Ohio, favoring rural free delivery, postal banks, etc.—to the Committee on the Post-Office and Post-Roads.

By Mr. HAMILTON: Petition of citizens of Allegan County, Mich., against repeal of law imposing tax on colored oleomargarine—to the Committee on Agriculture.

By Mr. HARDWICK: Petition of Atlanta Division, No. 180, Order of Railway Conductors, in support of bill H. R. 7014—to the Committee on Pensions.

Also, papers to accompany bill for relief of Nelson Stuckey—to the Committee on Pensions.

Also, papers to accompany bill H. R. 16861, granting increase of pension to Mary F. Walker—to the Committee on Pensions.

By Mr. HEARST: Petition of citizens of Peoria, Ill., favoring passage of bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. HEPBURN: Petition of merchants and citizens of Taylor County, Iowa, against enactment of parcels-post law—to the Committee on the Post-Office and Post Roads.

By Mr. HITT: Petition to discharge the Committee on Foreign Affairs from further consideration of so much of the estimate of the Secretary of the Treasury as refers to the boundary between Alaska and Canada and the boundary line between the United States and Canada—to the Committee on Appropriations.

By Mr. HOUSTON: Petition of C. W. Sheffer and 20 others, protesting against change or repeal of Grout law—to the Committee on Agriculture.

Also, petition of Carrie E. Rankin et al., favoring bill prohibiting liquor selling on Government premises—to the Committee on Alcoholic Liquor Traffic.

By Mr. HULL: Petition of the United Confederate Veterans, asking appropriate action looking to care and preservation of graves of Confederate dead—to the Committee on Military Affairs.

By Mr. KNAPP: Papers to accompany bill granting an in-

crease of pension to John M. Moon—to the Committee on Invalid Pensions.

By Mr. LAFEAN: Petition of the Pennsylvania State Grange, at Erie, Pa., indorsing bill H. R. 8678—to the Committee on Agriculture.

By Mr. LITTAUER: Papers to accompany bill granting a pension to Bishop L. Aldrich—to the Committee on Invalid Pensions.

By Mr. LLOYD: Petition of 64 citizens of Hamilton, Mo., protesting against a reduction of the tariff on tobacco imported from the Philippine Islands—to the Committee on Insular Affairs.

By Mr. LORIMER: Papers to accompany bill for relief of John Hopper—to the Committee on Invalid Pensions.

By Mr. LOUD: Petition of M. H. Nichols et al., against repeal of the Grout law—to the Committee on Agriculture.

By Mr. McMORRAN: Petition of F. W. Pohly et al., against repeal of the Grout bill—to the Committee on Agriculture.

Also, petition of the Brown City Grain Company, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

Also, petition of E. C. Ricer & Son and others, favoring bill H. R. 13778—to the Committee on Interstate and Foreign Commerce.

By Mr. MOON of Tennessee: Petition of heirs of Andrew R. Humes, asking reference of their claims to Court of Claims—to the Committee on War Claims.

By Mr. PINCKNEY: Petition of Eleanor L. Deadrick, widow of Thomas S. Deadrick, for increase of pension—to the Committee on Pensions.

By Mr. RICHARDSON of Tennessee: Petition of heirs of John McGill, deceased, of Coffee County, Tenn., asking reference of their claim to the Court of Claims under Bowman Act—to the Committee on War Claims.

Also, paper to accompany bill for the relief of heirs of William Pepper, of Bedford County, Tenn.—to the Committee on War Claims.

Also, petition of Moyas & Consaul, asking that claims of Joseph B. Johnson, of Flora, Tenn.; James Price, of Coffee County, Tenn., and W. J. Winsett, of Glimp, Tenn., be referred to the Court of Claims—to the Committee on War Claims.

Also, papers to accompany bill for the relief of James F. Phillips, of Coffee County, Tenn.—to the Committee on War Claims.

Also, petition of Jacob C. Herndon, of Rutherford County, Tenn., asking reference of his claim to the Court of Claims under the Bowman Act—to the Committee on War Claims.

By Mr. RUPPERT: Petition of Interstate Commerce Law Convention, favoring legislation for the enforcement of the requirements of the existing act—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Receivers and Shippers' Association of Cincinnati, favoring amendment to interstate commerce law increasing the powers of the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

By Mr. RYAN: Petition of Cigar Makers' Union, No. 2, of America, against a reduction of duty on cigars and tobacco from the Philippine Islands—to the Committee on Ways and Means.

Also, petition of the Kellog-Mackay-Cameron Company, favoring the Quarles-Cooper bill—to the Committee on Interstate and Foreign Commerce.

By Mr. SHACKLEFORD: Papers to accompany bill for relief of Wilhelmina Sharp—to the Committee on War Claims.

By Mr. WM. ALDEN SMITH: Petition of Asa Newman et al., of Portland, Mich., favoring enactment of the Hearst bill—to the Committee on Interstate and Foreign Commerce.

By Mr. STEPHENS of Texas: Petition of the Childress Division, No. 574, Brotherhood of Locomotive Engineers, favoring legislation requiring a locomotive engineer to have served three years as fireman on a locomotive—to the Committee on Interstate and Foreign Commerce.

By Mr. SULLIVAN of New York: Petition of the board of directors of the Receivers and Shippers' Association of Cincinnati, Ohio, favoring National Government regulation of freight rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of Annie Woernley et al., against legislation regarding the Sabbath day in the District of Columbia—to the Committee on the District of Columbia.

Also, petition of L. J. Walsworth et al., against legislation respecting the Sabbath day in the District of Columbia—to the Committee on the District of Columbia.

By Mr. SULZER: Petition of the Carriage Builders' National Association, favoring increased powers for the Interstate Commerce Commission—to the Committee on Interstate and Foreign Commerce.

Also, petition of the Merchants' Association of New York, favoring legislation to permit the regulation of towing in New York Harbor—to the Committee on Rivers and Harbors.

Also, petition of the Yale & Towne Manufacturing Company et al., against the Cooper-Quarles bill—to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Trades Association, for favorable consideration of House bill 9302—to the Committee on Ways and Means.

Also, petition of the Alaska Club, of Seattle, asking representation in the lower House of Congress for Alaska—to the Committee on the Territories.

Also, petition of the Grand Camp of the Arctic Brotherhood, asking adequate representation for Alaska in Congress—to the Committee on the Territories.

Also, petition of J. E. Linde Paper Company, favoring the Henry bill relative to third and fourth classes of mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of Ohio: Petition of the Journeyman Stonecutters' Association, favoring sandstone in the Government building at Cleveland, Ohio—to the Committee on Public Buildings and Grounds.

Also, petition of the Presbyterian and Methodist churches, relating to the Hamilton statehood bill—to the Committee on Alcoholic Liquor Traffic.

By Mr. TRIMBLE: Papers to accompany bill for relief of Samuel McMannus, of Eminence, Henry County, Ky.—to the Committee on Invalid Pensions.

Also, papers to accompany bill for relief of John M. Lawrence, of Eminence, Henry County, Ky.—to the Committee on Invalid Pensions.

By Mr. VAN VOORHIS: Papers to accompany bill for relief of Perry R. Nye, of Zanesville, Ohio—to the Committee on Invalid Pensions.

By Mr. WILEY of Alabama: Petition of citizens of Camden, Ala., favoring ratification of all treaties pending on arbitration—to the Committee on Foreign Affairs.

By Mr. WYNN: Petition of the Pomona Board of Trade, favoring recession of Yosemite Valley and Mariposa big tree grove to the United States Government—to the Committee on Agriculture.

Also, petition of the Los Angeles Chamber of Commerce and other organizations, favoring the Yuma project relative to Colorado River—to the Committee on Irrigation of Arid Lands.

SENATE.

WEDNESDAY, *January 18, 1905.*

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. DOLLIVER, and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

COUNTING OF ELECTORAL VOTE.

The PRESIDENT pro tempore appointed Mr. FORAKER and Mr. GORMAN as tellers on the part of the Senate under the concurrent resolution providing for the appointment of tellers at the counting of the electoral vote for President and Vice-President of the United States.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of the trustees of the Muhlenberg Evangelical Lutheran Church, of Harrisonburg, Rockingham County, Va., *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of the findings of fact filed by the court in the cause of Samuel F. Ryan *v.* The United States; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President pro tempore:

H. R. 808. An act granting an increase of pension to George Deland;